OVERSIGHT OF INSTITUTIONAL AID PROGRAMS, 1981

HEARING

BEFORE THE

SUBCOMMITTEE ON
EDUCATION, ARTS AND HUMANITIES

OF THE

COMMITTEE ON
LABOR AND HUMAN RESOURCES
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

OVERSIGHT OF TITLE III OF THE HIGHER EDUCATION ACT
DEVELOPING INSTITUTIONS PROGRAMS

OCTOBER 29, 1981

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OVERSIGHT OF INSTITUTIONAL AID PROGRAMS, 1981

THURSDAY, OCTOBER 29, 1981

U.S. Senate,
Subcommittee on Education, Arts and Humanities,
Committee on Labor and Human Resources,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:45 a.m., in room 4232, Dirksen Senate Office Building, Senator Jeremiah Denton presiding pro tempore.

Present: Senator Denton.

Senator **Denton**. This hearing on eligibility criteria for title III of the Higher Education Act before the Subcommittee on Education, Arts and Humanities will come to order.

This morning's hearing begins an examination of the new eligibility criteria established by the Education Amendments of 1980 for schools seeking to compete for grants under the institutional aid programs authorized by title III of the Higher Education Act. It is an extremely important program to developing and special needs schools in our country.

Normally, I serve on this subcommittee under the leadership of Senator Stafford, but Senator Stafford is regrettably unable to be here this morning and has asked me to chair this hearing. I am pleased to chair it because of my interest in this particular matter.

Senator Pell, the ranking minority member, regrets that he was unable to be here this morning, but has asked that a statement from the Community College of Rhode Island be inserted into the record.

Also, Senator Durenberger has asked that a statement by the College of St. Scholastica be included in the record.

[The following was received for the record:]

Community College of Rhode Island

Flanagan Campus, Louisquisset Pike, Lincoln, RI 02865

Office of Development 401-333-7000

October 28, 1981

Honorable Claiborne deB.Pell
United States Senator
Committee on Human Resources
Washington, D.C. 20510

Dear Senator Pell:

We appreciate very much the opportunity to comment on Title III legislation and regulations at this time. Community College of Rhode Island, Rhode Island's only public two-year degree granting institution of higher education, applied for federal support in FY 1981 and received surprising and extremely disappointing news that our institution was not eligible. We comment from the point of view of our experience. But we also comment from our interest in strengthening those institutions of higher education which serve low-income, minority, and disadvantaged populations, as well as the nontraditional learner, for that is the essence of Title III/HEA legislation as we understand it.

Briefly, The Community College of Rhode Island was formed by the General Assembly in 1964 and has had sixteen graduating classes since. We have been governed by the Rhode Island Board of Regents and are now administered through the Rhode Island Board of Governors for Higher Education. We are fully accredited and have been. We enroll 12,000 students presently and graduate approximately 1,400 students each year, and this fact makes us the largest two-year college in New England. We have a single administration and a single budget for financing our programs on two new campuses, one in Warwick and one in Lincoln, and several satellites. We are recognized for preparing qualified students to enter technical careers, as well as for nurturing students who will complete the baccalaureate degree.

Given this background, we would like to frame below a set of comments which reflects our sense of urgency that the Title III program be reviewed and its effectiveness enhanced.

(1) Please consider how eligibility criteria is determined, whether the criteria is appropriate to struggling public two-year colleges, and how the criteria is actually applied. We determined,

according to existing rating scales in December of 1980, that we were an eligible institution and prepared our application on that basis. We were informed, only belatedly and in response to our calls, that we were not eligible. The reason given was that we were applying as a nonaccredited "branch" campus. We do not accept the reason that our application was made as a "branch campus," the argument offered by the Eligibility Unit. Any reader of the application's content could tell the nature of the College's administration. All programs for which funds were sought benefited the entire college - all faculty, all staff, all students. It is an impossibility for us to seek accreditation for one campus; it is accredited as a part of the whole. We think such reasoning as provided to us is specious, irrelevant, and not in keeping with the spirit of Title III legislation.

(2) We urge more careful scrutiny of the operational definitions for eligibility. These may be too narrow and restrictive and with changing times, indeed, may even have less application to the conditions of many two-year institutions.

(3) Please press the importance of two-year institutions of higher education as important recipients of Title III federal funds. Many of us in community colleges throughout the country wonder why we get the feeling we are stepchildren in the thinking of Title III program managers. Two-year colleges are the backbone of higher education and will be evermore critical to the continuing higher education of less economically fortunate families in this country. The two-year colleges are the young, developing institutions, and it is these which require strengthening.

In conclusion, we are urging an enlightened recognition and support for the developing public two-year institutions of higher education. We feel this means careful formulation of guidelines, and it means interpretation of the guidelines within the true spirit and purpose of the legislation.

I thank you personally for the opportunity you provided us for comment.

Sincerely yours,

Elizabeth S. Palter

Elizabeth S. Palter, Ph.D.
Director of Development

ESP:ab

COLLEGE OF ST. SCHOLASTICA
a co-educational Benedictine College

OFFICE OF THE PRESIDENT

October 22, 1981

Senator Dave Durenburger
353 Russell Office Building
Washington, D.C. 20510

Dear Senator Durenburger:

As I indicated by phone earlier this week, the proposed regulations for Title III of the Higher Education Act published Monday, July 21, 1981, in the Federal Register, are a major cause of concern.

The 1980 Higher Education Amendments revised the Title III program and, among other things, required that in order to be eligible for participation in the "Strengthening" portion of the legislation, colleges would have to "enroll a substantial percentage of students who receive Pell Grants." The implementing regulations, apparently drawing in part on a statement made on the floor of the Senate by Senator Pell, went on to define a college having "a substantial percentage" of Pell Grant recipients as one where "at least 35 percent of its (a college's) undergraduate students who were enrolled as at least half-time students and were eligible to apply for Pell Grants in the base year (1978-79) received Pell Grants in that year."

The effect of implementing these regulations would be disastrous. Many colleges, including this one, which have long been considered "developing" and "in need of strengthening" would be immediately eliminated from consideration. Based on our research, it appears that all but one of Minnesota's private colleges would be eliminated and participation by even that one college would depend on the questionable assumption that 10 percent of each college's enrollment did not meet Pell eligibility requirements and could be eliminated. The enclosed table shows the situation more graphically. As you can see, the College of St. Scholastica is close but would not be included even though we are in a financially depressed area of the state and have one of the largest per student BEOG awards in the state as well.

Senator Durenburger, the College of St. Scholastica has received a great deal of important assistance under the Title III program. We have made major strides toward improved management and significantly enhanced our likelihood of survival. We have developed a comprehensive student service program; we have improved our planning and management functions; we have strengthened the College's student financial aid office; and we have made substantial strides toward adjusting our curriculum to better meet the needs of the people of Northeastern Minnesota. Our continued efforts to improve will be significantly jeopardized if Title III support is placed out of reach. The fact that the State of Minnesota would be virtually eliminated from participation under the proposed regulations is a matter of particular concern. I urge that the 20 percent level be considered substantial.

1200 Kenwood Avenue
Duluth, Minnesota 55811
218-723-6033

I hope that after reviewing this matter you will urge Senator Pell first to clarify his definition of substantial and then to instruct the Department of Education to revise its definition of "substantial numbers of Pell Grant recipients" to a level which would at least allow several Minnesota colleges to apply for participation in the program. I believe that once in the competition, the quality of our application will continue to stand us in good stead and that we will continue to merit support under this important program.

Thank you very much for looking into this matter. As always, I appreciate your interest in this college and your willingness to be of assistance to us.

Sincerely yours,

Daniel H. Pilon

Enc.
cc: Senator Rudy Boschwitz
Congressman James Oberstar

NAME OF INSTITUTION	NUMBER OF PELL RECIPIENTS BY INST. 1978-79 (Rank Order)	FALL 1978 UNDERGRAD ENROLLMENT (10-10-78 HEGIS Data)	FALL 1978 UNDERGRAD ENROLLMENT REDUCED BY 10% (Est. % of Stu's not Eligible to Apply for Pell)	% OF STU'S ELIGIBLE TO APPLY FOR PELL WHO ACTUALLY RECEIVED PELL 1978-79
Concordia - Moorhead	621	2,667	2,400	25.88
St. Thomas	429	4,482	4,034	10.63
Bethel	402	1,864	1,678	23.96
Gustavus Adolphus	388	2,244	2,020	19.21
*St. Benedict	382	1,921	1,729	22.09
Augsburg	377	1,625	1,463	25.77
St. Olaf	364	2,971	2,674	13.61
*St. Scholastica	343	1,162	1,046	32.79
St. John's	343	1,971	1,774	19.33
*St. Catherine	304	2,201	1,981	15.35
Macalester	284	1,763	1,587	17.90
Hamline	281	1,668	1,501	18.72
Concordia - St. Paul	205	633	570	35.96
*St. Mary's Junior College	191	1,266	1,139	16.77
Mpls. College of Art & Design	175	682	613	28.55
*St. Teresa	172	892	803	21.42
Carlton	164	1,709	1,538	10.66

1 - Number of Eligible Four Year Institutions
0 - Number of Eligible Two Year Institutions

* - Indicates Current or Past Recipients of SDIP Funding

Prepared by William Kazel, SDIP Coordinator, College of St. Scholastica, with the assistance of the Minnesota Private College Council

Senator DENTON. The institutional aid programs, formerly known as the strengthening developing institutions program, were established to provide assistance to 2- and 4-year colleges so that they could enter into the mainstream of American higher education. Grants were made so that developing schools might reasonably expand their enrollments and attract outside financial resources.

There is now some question as to what impact the changes made last year by Congress have had on the determination of school eligibility for these grants. In response to this concern, Senator Stafford and I have invited comment on four amendments which were prepared to alter those eligibility requirements.

The first two amendments would eliminate the requirement for a statistically high average student financial assistance award as a consideration for eligibility. Pell grants are now used to determine qualification under Part A, Strengthening Institutions. Likewise, college work study, direct student loans, supplemental educational opportunity grants, along with Pell grants, are used for Part B, Special Needs.

These amendments were drawn in response to statements that the average Pell grants and the other types of title IV student assistance were not an accurate statistic by which to determine institutional eligibility for title III. It is argued that they measure the needs of students, not schools.

The third amendment repeals the new formula for calculating full-time equivalent students for purposes of determining average education and general, so-called E. & G. expenses and allows schools to calculate E. & G. expenses as they have in the past.

Schools have voiced concern that they do not keep statistics in the manner required by the 1980 Education Amendments and would consequently not be eligible for title III assistance on a technicality.

The fourth amendment deals with the computation of E. & G. expenses for institutional aid eligibility. Current law requires that average E. & G. expenses be calculated using only undergraduate students in the computation. Developing institutions with graduate schools have found problems with this requirement, as they do not separate undergraduate and graduate E. & G. expenses. Thus, the average E. & G. expenditure is artificially higher for those schools. This amendment would permit institutions with graduate schools to include their graduate students in the eligibility equation.

Finally, one last problem involves newly independent, accredited schools, many of which are tribally controlled Indian institutions. Because these schools have just become independent from parent campuses, they have no statistical base from which to compute average Pell grants or other types of student assistance. This leaves them ineligible for title III funding in spite of their special needs. I will be inquiring today as to the administration's plans to resolve this question.

In the area of education, the disadvantaged often look to Government's help to hold open the door to opportunity because education propels them forward rather than props them up. But their opportunity is only as strong as our teaching institutions.

For this reason, I successfully offered an amendment in committee to increase the authorization for the institutional aid programs from $120 million to $129.6 million earlier this year.

Established primarily to aid historically black colleges, the title III program now helps many types of institutions. In my State of Alabama alone, there are currently five 2-year and ten 4-year schools receiving funds under its auspices.

I recall last April when Vice President Bush was invited to the centennial celebration at one of those schools, Tuskegee Institute, and it was my privilege to accompany him on that occasion. He pledged there that the administration would support America's black institutions, and indeed that they would be "preserved and strengthened in the years ahead," in his words. Even before that occasion and, of course, since that occasion, I have agreed with him on that subject. I stand with him in that conviction and will work to see that title III remains a strong, workable program in my State and in the country.

We are dealing, then, with a program which was originally designed to aid black institutions and whose scope has since significantly broadened. We are dealing, too, with a program whose funding has been capped for the next 3 years.

The amendments discussed today will in no way increase funding for title III. At issue is eligibility to compete for the limited funds available. I look forward to hearing from the administration and the educational community on the current situation, in the hope that together we can shed some light, not heat, on the subject and work in partnership for the greater goals of this important program.

For our first witness, I am pleased to welcome Dr. Thomas Melady, Assistant Secretary for Post-Secondary Education. It is extremely important that we have the input of the administration on the issues we have laid on the table.

Good morning, Dr. Melady. I understand you have an opening statement, and would you care to identify the gentleman with you?

STATEMENT OF THOMAS MELADY, ASSISTANT SECRETARY FOR POST-SECONDARY EDUCATION, U.S. DEPARTMENT OF EDUCATION, ACCOMPANIED BY CHARLES DEES, EXECUTIVE ASSISTANT

Dr. **Melady**. Yes, Senator; Dr. Charles Dees, my executive assistant.

Senator **Denton**. Good morning, sir.

Dr. **Dees**. Good morning, Senator.

Dr. **Melady**. Mr. Chairman and members of the subcommittee, my name is Thomas Melady and I now serve as Assistant Secretary for Post-Secondary Education in the U.S. Department of Education.

Thank you for the opportunity to appear before the subcommittee today to provide the Department's views on the impact of regulations and law affecting the institutional aid programs under title III of the Higher Education Act, as amended by the Education Amendments of 1980.

Congress has found, and the Department agrees, that many institutions of higher education in this era of scarce resources face problems which threaten their ability to survive. These problems relate to management and fiscal operations as well as to an inability to engage in long-range planning, recruitment and development activities. The solution to these problems would enable these institutions to become viable and thriving.

The Department has long recognized that these institutions, many of which are historically black institutions, play a vital role in the American system of higher education. Every effort must be made to help these institutions become self-sufficient and, therefore, free from dependence on the Federal Government for financial assistance under title III.

In the spirit of helping these institutions graduate from the need for unending Federal financial assistance, the Department supported changes in the authorizing legislation—title III of the Higher Education Act. These statutory changes, contained in the Education Amendments of 1980, replace the old strengthening developing institutions program with three new institutional aid programs.

Proposed regulations to implement the new law were published for public comment in the Federal Register on July 18, 1981. The comment period closed on September 22, 1981.

During the process of developing regulations, the Department, after reviewing public comments on the proposed regulations and conducting computer analyses of available student financial aid data, identified several problems with the new law that must be solved in order to insure that the intent of Congress is carried out properly.

First, institutions that Congress presumably intended to benefit from the title III programs will not qualify as eligible applicants. Second, institutions do not generally collect data that must be used to determine institutional eligibility in the manner described in the law.

To solve these problems, the Department supports the technical amendments that you, Senator Denton, have indicated you may introduce as a part of the Labor and Human Services appropriations bill for fiscal year 1982. These amendments are urgent and necessary to properly administer the program this fiscal year. Without these amendments, many institutions that Congress presumably intended to participate in title III will not be eligible.

Under the new law, to be eligible for a title III grant, an institution must meet three basic eligibility requirements. First, it must enroll a substantial percentage of students receiving financial assistance under title IV. For part A, only Pell grants are considered; for part B, all title IV need-based student assistance is considered.

Second, the average amount of this assistance to students at applicant institutions must be high in comparison with the average amount of this assistance at all similar institutions.

Third, the average educational and general, or E. & G., expenditures at the applicant institution per full-time equivalent undergraduate student must be low in comparison with the average E. & G. expenditures per full-time equivalent undergraduate student at institutions that offer similar instruction.

Presumably, Congress intended that these eligibility factors would identify institutions that need special assistance under title III because they enroll large numbers of low-income students and because their ability to provide essential educational services is limited.

Of the three eligibility factors in the law, the one pertaining to "high average award" is most troublesome because it does not accurately identify institutions that enroll large numbers of low-income students. This may be due to several factors.

Campus-based assistance, such as college work study, supplemental educational opportunity grants, and national direct student loans, is awarded at the discretion of each college according to the student's unmet financial need. Unmet need is determined, in general, by subtracting from the student's cost the expected family contribution and the Pell grant award.

Obviously, the amount of tuition and fees charged by the institution will have a significant bearing on whether a student has unmet financial need. Furthermore, some colleges choose to award a small number of larger grants in an attempt to fulfill unmet needs completely for relatively few students. Other colleges distribute smaller awards to many students. Thus, the average award is not an accurate indicator of student need or income.

The amount of a Pell grant, unlike the campus-based aid, is determined by a formula that considers income and cost. The amount of the Pell grant is not subject to adjustment by a financial aid officer, and therefore tends to reflect more accurately the level of student and family income.

However, the average award for low-income students at a college that charges little or no tuition will be lower than the average award at a college charging higher tuition, in spite of the fact that both colleges may enroll equal numbers of comparably low-income students.

Similarly, the average award at colleges that enroll many part-time students will be significantly lower than the average award at colleges that enroll few part-time students. Thus, many colleges that make extra efforts to serve low-income students by charging little or no tuition or by providing part-time study opportunities may be inappropriately denied eligibility for title III assistance.

After analyzing student financial assistance for the 1978–79 academic year, the Department has found that a large number of institutions that were eligible for the old title III program will not be eligible for the new program. We also found that certain types of institutions in some States are much more adversely affected by the high average award criterion than institutions in general.

For example, in fiscal year 1981, 15 title III grants were made to 2-year institutions in North Carolina. Under the new law, which includes the high average award requirement, only two such institutions in the entire State would be eligible. If that requirement were deleted, twenty-two 2-year institutions would be eligible.

In California, only two 2-year institutions would be eligible to apply under the current law. If the high average award requirement were deleted, 27 would be eligible. In Alabama, by deleting the high average award requirement, 16 rather than 5 would be eligible. In South Carolina, by deleting the high average award requirement, 11 rather than 2 would be eligible.

Moreover, the Department has found that approximately 30 historically black institutions would be denied eligibility for either part A or part B funding because of the high average award requirement in the law. More than 25 percent of the member institutions in the United Negro College Fund would be ineligible.

We believe that the effect of the high average award requirement is contrary to the administration's commitment to enhance black higher education, and contrary to the original intent of Congress.

Mr. Chairman, I would like to reemphasize that the projections of eligibility referred to above are based on 1978–79 student financial aid data. I would also like to point out that the Department expects to be able to use more recent 1979–80 data to determine eligibility this coming year.

However, we have not completed the process of preparing these data for computer analyses at this time and, as a result, cannot identify specifically those institutions that will be adversely affected during the upcoming grant cycle by the high average award criterion. It is almost certain that some individual institutions that are not eligible on the basis of the 1978–79 data may become eligible on the basis of the 1979–80 data, and vice versa.

In spite of the fact that our current projections are based on 1978–79 data, it is important to understand that the overall effect of using the high average award requirement as an eligibility criterion is not likely to change the fact that many of the institutions that Congress intended to benefit from this program will not be able to apply.

The Department also supports the other technical amendments that Senator Denton may propose that deal with the data used to define an eligible institution. Under the law, applicants must determine the full-time equivalent enrollment using only one method—dividing the total number of credit hours for all part-time students by 12 and adding that number to the total number of full-time students.

The Department has learned that allowing only this method of calculation would cause great difficulties because institutions currently use a variety of acceptable methods of calculating the full-time equivalent of part-time students. Many institutions did not compile data on the number of credit hours of part-time students separately from the number of credit hours for all students.

It will be extremely difficult, if not impossible, for these institutions to go back in time and calculate their full-time equivalent enrollment using the method prescribed by law.

Another part of the Senator's intended amendment would delete the word "undergraduate" as it pertains to the calculation of educational and general expenditures. Neither the Department nor most institutions collect data that would specifically satisfy this requirement. To supply these data, each institution enrolling both graduate and undergraduate students would face a tremendous increase in paperwork burden, because most of these institutions do not calculate their undergraduate E. & G. expenditures separately from their E. & G. expenditures overall.

It is important to understand that the E. & G. per full-time equivalent undergraduate student criterion is a relative one. It compares an applicant institution's E. & G. expenditures against the nationwide average expenditure for institutions offering similar instruction.

The vast majority of institutions that make up the national average will not apply for title III funds, and the Department has no authority to require these institutions to define the full-time equivalent of part-time students or calculate E. & G. expenditures for undergraduate students using the one method described in the law. As a result, the data used to calculate the nationwide average E. & G. expenditure per full-time equivalent undergraduate student may not be reliable.

Mr. Chairman, thank you again for the opportunity to express our views on these important matters. I would like to conclude my remarks by assuring this subcommittee that the Department is making every effort to insure that the new title III program of institutional aid is administered soundly to fully meet the purpose of the law and the intent of the Congress.

Please feel free to call upon me or members of my staff if we can provide any further assistance or information to help resolve these problems that I have just described. Thank you.

Senator DENTON. Thank you, Dr. Melady, for your clear and helpful opening statement.

You mentioned that many schools which were eligible for title III assistance in 1981 will not be eligible in 1982. Can you tell us how many were eligible in 1981 and how many will be eligible in 1982 so that we can see the difference?

Dr. MELADY. Yes, Senator Denton. Based on the 1978–79 data, of the 1,200 institutions that were potentially eligible last year, 550 will not be eligible this year. This means that only 650 institutions will be potentially eligible.

However, if the high average award criterion is deleted, approximately 1,150 institutions will be eligible. As you can see, this amendment would keep the pool of potential eligible applicants about the same size as last year.

Senator DENTON. Can you break those numbers down into 2-year and 4-year public, private, and historically black colleges so that we can get an idea of which category would be hurt most by the new law without the amendment and what would happen with the amendment?

Dr. MELADY. Senator, it is impossible for us to accurately break down that number, since not all the potential applicants actually applied. However, we can tell the subcommittee about the effect of the high average award criterion on those institutions that were actually determined to be eligible.

We estimate that of the more than 500 4-year institutions that actually applied for eligibility last year and were determined to be eligible, 250, or about half, will not be eligible this year unless the high average award criterion is deleted.

Of the more than 350 2-year institutions that were actually determined to be eligible, over 225, or about 60 percent, will not be eligible this year. Historically black institutions are also adversely affected, as I mentioned in my preliminary remarks; 89 of 104 historically black colleges participate in title III. Thirty of that group that were eligible last year will not be eligible this year under either part A or part B.

Senator **Denton**. Thank you, Dr. Melady.

Several Senators on the committee, Senator Humphrey in particular, are interested in a regional breakdown of those schools which were eligible in 1981 but will not be eligible in 1982. Could you give us some idea of the numbers involved with respect to the Northeast, South, Midwest, et cetera?

Dr. **Melady**. I am sorry; right at this moment, Senator Denton, we cannot supply that to you, but we are going to make every effort to obtain the data by regions, and we will submit it to you at the earliest possible time.

Senator **Denton**. Realizing that there would be a decrease in the number of schools eligible, would there be some new ones that would come under eligibility, in spite of that subtraction? How many of those would there be?

Dr. **Melady**. There again, Senator, I cannot give you the answer, but I know we have the data around and we will be studying it and giving it top priority, and I will supply the information to you and the committee as soon as we have it.

Senator **Denton**. You stated in your testimony that the high average award amendment was urgent. I assume you mean this year. Is that the urgency which you ascribe to this, that we change it this year?

What is the urgency of it other than what is evident in the figures that you have told us about and the rationale you have given us?

Dr. **Melady**. Yes, Senator, we do believe that it is urgent. It is not possible for the Department to remedy the problem administratively. The current requirement would eliminate from consideration for funding many institutions that we believe Congress intended to participate in the program.

Institutions that do not receive a grant this year are not likely to receive one for several years. We expect that over 98 percent of this year's appropriation will be awarded in the form of multiyear grants which will be renewed in subsequent fiscal years on a noncompetitive basis. Funds for new awards in subsequent years will be extremely limited until some of the multiyear contracts expire, particularly since there is little likelihood that future appropriations will exceed this year's level. For those reasons, we do think it is urgent.

Senator **Denton**. Why did the Department establish 35 percent as its definition of "substantial percentage" rather than the figure of 45 percent which was specifically mentioned on the Senate floor during the debate on the passage of the Higher Education Amendments?

Dr. **Melady**. Senator, the law allows the Secretary to determine what constitutes a substantial percentage for purposes of determining institutional eligibility. However, the Senate floor discussion was useful in helping data experts in the Department begin the analysis of what a reasonable threshold should be, as evidenced by the numbers and types of institutions that would be eligible at various "substantial percentage" thresholds.

For example, at 45 percent, approximately 450 institutions would have been potentially eligible under either part A or part B. Of this number, 150 would have been 2-year, and 300 would have been 4-year institutions.

At the 35-percent level, approximately 650 would be eligible. As a result, we believe that if 45 percent were used as a definition of substantial percentage, many institutions that Congress clearly intended to be eligible would be eliminated from any consideration. In fact, we believe that the 45-percent figure would limit eligibility to such an extent that it would be difficult for the Department to operate a discretionary grant program and spend all of the funds Congress appropriated.

Senator **Denton**. If the word "undergraduate" is deleted in the section determining E. & G. expenses, how would the Department address the concerns that led to the inclusion of the term "undergraduate" in the 1980 amendments?

Dr. **Melady**. The act gives the Secretary the authority to waive the E. & G. expenditure requirement for an institution if its average E. & G. expenditure level is distorted. The Secretary will determine, through the regulations, the higher-cost graduate, professional training that will be considered as one of the factors that distort E. & G. expenditure levels.

Therefore, the Secretary would waive the E. & G. requirement for institutions whose high-cost graduate and professional programs increased their professional E. & G. expenditure.

Senator **Denton**. If we drop the formula for computing full-time equivalent students, how will FTE be computed?

Dr. **Melady**. Senator, the currently acceptable and most widely used method of determining full-time equivalent enrollment involves dividing the total number of part-time students by three and adding that number to the full-time enrollment. Although this is not the exact method described in the law, data experts in the Department agree that it produces comparable results.

Senator **Denton**. If neither of these changes is enacted into law, will the Department take any administrative action to solve these problems? Can you take any?

Dr. **Melady**. I have not got the material here, Senator, but I believe that we need the help of Congress to correct what we regard as an urgent problem; we do not have the authority. Once the legislation that is proposed is enacted, we would have the authority, in my opinion, to remedy some of these deficiencies.

Senator **Denton**. Now, my question regarding your spectrum of prerogative for administrative action extends only to the previous two questions regarding the undergraduate and the FTE considerations, not anything else.

Dr. **Melady**. Yes; pardon me.

If "undergraduate" is not dropped, we will have to devise a general formula that applicants with graduate programs would use to estimate their undergraduate E. & G. expenditures. Since information on "undergraduate only" expenditures is not collected by institutions, in general, or by the Department, by adjusting the average E. & G. expenditure statistically, we may be able to operate the program and fully comply with the law.

However, this procedure is certain to impose additional data burdens on many applicants. Regarding the calculation of full-time equivalent, since the methods currently in widespread use produce results similar to the method described in the law, the Secretary may be able to determine, through regulations, that the institutions which use this method to compute full-time equivalency are, in fact, in compliance with the law.

Senator **Denton**. Well, then, we would be cautiously optimistic that working with you, you could take care of those two items administratively, as determined by this and other hearings, and we would take care of the rest by law.

Dr. **Melady**. Yes, Senator.

Senator **Denton**. What is the impact of the eligibility requirements contained in the new law on tribally controlled Indian community colleges, and do you propose any administrative action with regard to this class of schools?

Dr. **Melady**. This is one we have considered carefully. The most obvious problem that tribally controlled Indian institutions face deals with a catch 22 in the law that permits waiver of the 5-year accreditation requirement, but does not allow for waivers of Pell grant or student-aid requirements.

Several Indian institutions that have become accredited within the last 5 years did not, during the base year, enroll students receiving Pell grants or other campus-based student financial aid. Of the 18 tribally controlled institutions nationwide, 10 enroll students who receive need based student aid under title IV.

In addition, one Indian institution is not eligible because it does not grant a degree. We believe that no more than seven may face the catch 22 situation. Most of the seven institutions, while lacking accreditation status separately, were affiliated with a host or mother institution.

We propose to permit these seven institutions to count the students that attended their schools but received Pell grants or campus-based student financial aid as a matter of record through the mother campus. In this manner, we will give credit to the tribally controlled institution that actually served low-income students.

Of course, this will not guarantee that the seven institutions will qualify, unless they enroll a substantial percentage of these students and their average award is high. Our administrative procedures will only eliminate an anomoly in the law.

Senator **Denton**. Will increasing the number of institutions eligible to compete for grants in any way dilute the size of the individual grants?

Dr. **Dees**. If I may add, Senator——

Senator **Denton**. Of course, Dr. Dees.

Dr. **Dees**. It may or may not. It depends on the amount of the requests that these institutions submit for their grant. We have no control over their actual dollar request, as you can well imagine. So, it is very difficult to suggest that the grants would be higher or lower. Obviously, that will depend on the universe of institutions and, after the eligibility process, those numbers that are eligible.

If a larger number find themselves eligible, then obviously there will be more of a strain on the pool of money available. But you never know that because the requests of institutions vary by the nature of the institutions.

Senator **Denton**. Thank you very much, Dr. Melady, for your fine statement and testimony, and thank you, Dr. Dees, for your assistance. We will let you return to your important duties before we hear from the representatives of the education community.

Dr. **Melady**. Thank you very much, Senator, for the opportunity of testifying for the first time before the subcommittee. Thank you very much.

Senator **Denton**. Now we will be pleased to hear from five representatives of the education community, and as I call their names, I hope they will come forward and sit corresponding to their names here at the table.

The American Association of Community and Junior Colleges and the National Association of State Universities and Land Grant Colleges selected witnesses from Alabama. One of these witnesses shares the same hometown I do—Mobile, Ala.—and I have heard a great deal about Dr. Yvonne Kennedy.

She obtained her doctorate from the University of Alabama and was recently appointed the president of S. D. Bishop State Junior College, a school she attended as a student. Prior to that, she was the coordinator of Bishop's higher education program. She is also a highly respected member of the Alabama State Legislature.

Welcome, Dr. Kennedy.

Dr. **Kennedy**. Thank you very kindly.

Senator **Denton**. Dr. Thomas Hearn obtained his doctorate in philosophy from Vanderbilt University, then returned to his home State to work with the University of Alabama in Birmingham. He has been chairman of the Department of Philosophy, Dean of the School of Humanities, and, since 1974, has served as vice president for University College.

Welcome to you, Dr. Hearn.

Next, we are pleased to have Dr. Elias Blake, president of Clark College in Atlanta, Ga., who will represent the United Negro College Fund. He was an early participant in the development of the title III program and will add an historical perspective from which the subcommittee will benefit.

Welcome to you, Dr. Blake.

Dr. Charles A. Lyons, chancellor of Fayetteville State University in North Carolina, has been asked to represent the National Association for Equal Opportunity. This organization represents historically black schools.

Is Dr. Lyons here?

Dr. **Hytche**. There has been a change there, Senator.

Senator **Denton**. All right. Dr. William Hytche, chancellor of the University of Maryland, Eastern Shore and secretary of the Board of Directors, National Association for Equal Opportunity in Higher Education, will represent NAFEO today. Pardon me, Dr. Hytche, and welcome.

Finally, we have Mr. Elgin Badwound, president of Oglala Sioux Community College, and president of the American Indian Higher Education Consortium. He will voice the concerns of tribally-controlled Indian institutions about the current title III regulations, some of which we have discussed, and share his reaction to the proposal of the administration to deal with those particular difficulties.

Welcome to you, Mr. Badwound.

We regret that there is no representative from the National Association of Independent Colleges and Universities, but we do have the expectation of written testimony for the record from that association.

[The following was received for the record:]

naicu
**National Association
of Independent
Colleges and Universities**

Suite 503
1717 Massachusetts Avenue, N. W.
Washington, D. C. 20036
202/387-7623

October 28, 1981

The Honorable Jeremiah Denton
5331 Dirksen Office Building
United States Senate
Washington, D.C. 20510

Dear Senator Denton:

On behalf of the 851 colleges and universities, 43 state associations, and 28 special purpose associations which comprise the National Association of Independent Colleges and Universities, let me thank you for the opportunity to present these views on eligibility criteria for the Title III, Aid to Institutions program.

The Title III program has been an important program for many of our smaller institutions since it was enacted in 1965. Many of our institutions have participated in the program through all of the changes in program eligibility that resulted from the many subsequent reauthorizations which refined the purposes of the program. Throughout all of these changes in the program, we have attempted to ensure that any new program requirements not restrict eligibility to such an extent that colleges with legitimate needs for Title III funds would not be eligible to compete for program support.

To that end, we have opposed specific legislative set-asides of funding for particular types of institutions in order that the limited funds appropriated by the Congress remain available for competition among all types of institutions that have need for such funds. Prior to the enactment of the Education Amendments of 1980, all types of eligible institutions had access to the appropriated funds. Now, the new legislated set-asides for two-year institutions, compounded by the assurance that Black institutions continue to receive at least the funding levels they received last year, allow very little of the Title III appropriation to remain available for other institutions with need for the funds.

With respect to the Notice of Proposed Rulemaking (NPRM) for the Title III program recently issued by the Department of Education, the enclosed copy of our comments demonstrates our principal concern remains the eligibility criteria. Our specific concerns are the following:

-- The choice of base year for the various data elements required to determine eligibility is vital to the continued eligibility of many of our institutions. We have urged the Department to use data from academic year 1979-80 which provided a more accurate picture of the actual funding patterns resulting from enactment of the Middle Income Student Assistance Act in 1978. We understand the Department is considering adopting our suggestions with respect to the base year.

-- The choice of what figure represents a "substantial percentage" of students eligible to receive Pell Grants (Part A), or Pell Grants and other need-based student assistance (Part B), is also of real importance to our institutions. The Department has suggested in the NPRM that a 35-percent requirement allows a fair number of previously participating colleges to be eligible again this year, without falsely raising expectations of institutions when the available funds are so limited. Although arguments on this issue go to both raising the 35-percent figure and lowering it, adequate analysis on which to base such a decision has not yet been released by the Department. Preliminary analysis of Title III data gathered by our own companion organization, the National Institute of Independent Colleges and Universities, indicates that the 35-percent requirement would restrict the pool of eligible institutions to an estimated 772 colleges. Reducing the requirement to 25-percent would restore the pool of eligible institutions to an estimated 1041 colleges. Pending receipt and verification of evidence to the contrary from the Department, we would support a 25-percent requirement as a reasonable resolution of this issue.

With respect to specific proposals to amend the Title III statute, we respectfully request that you allow us to comment on such proposals after your October 29 hearing, so that we can review them in the context of the explanations and analysis presented by the Department at the hearing. Although some of these proposals may be technical in nature, we are concerned that unintended consequences may result in restricting eligibility for numbers of institutions in an effort to allow individual campuses to qualify for the program.

I hope this letter may be made a part of the hearing record of your October 29 hearing. Again, let me thank you for this opportunity to share these views with you on this very important program.

Sincere best wishes,

John D. Phillips

John D. Phillips
President

Enclosure

**National Association
of Independent
Colleges and Universities**

Suite 503
1717 Massachusetts Avenue, N. W.
Washington, D. C. 20036
202/387-7623

September 16, 1981

Ms. Alfreda M. Liebermann
Chief, Policy and Planning Section
Institutional Aid Programs
U. S. Department of Education
L'Enfant Plaza
Post Office Box 23868
Washington, D.C. 20024

Dear Ms. Liebermann:

On behalf of the 850 colleges and universities, and the 70 state and special purpose associations which comprise the National Association of Independent Colleges and Universities, we are submitting the following comments on the July 20, 1981 Notice of Proposed Rulemaking (NPRM) for Title III, Institutional Aid, of the Higher Education Act. Our review of the proposed regulations has raised a number of concerns related to your interpretations of the authorizing statute.

Designation of Eligibility

Our principal interest in connection with institutional eligibility to receive Title III assistance remains unchanged: namely, that the largest possible pool of institutions should be eligible to compete for program support. In that regard, we are concerned about the complexity of the new process, which would require an institution to meet three major tests in order to be eligible to compete. The uncertainty of specific key terms further complicates these new proposed tests.

The principal factor in determining eligibility for all parts of Title III would be the "base year" to be used in calculating the institutional and student factors in the eligibility formulae. The statute allows the Secretary to designate the "base year," but the NPRM is silent on this issue. As you are well aware, the choice of "base year" is critically important to institutions seeking Title III funding. Significant shifts in funding could occur if the Secretary selects academic year 1978-79 instead of academic year 1979-80. We urge you to designate academic year 1979-80 as the "base year" for calculating Pell Grant and Campus-based program recipients because that year reflects the benefits which have resulted from enactment and funding of the Middle Income Student Assistance Act. Furthermore, we believe that designation of academic year 1979-80 as the "base year" would not only benefit independent colleges and universities, but would positively assist all types of institutions.

Ms. Alfreda M. Liebermann
September 16, 1981
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We understand that one reason for the delay in designating a "base year" is that the National Center for Educational Statistics (NCES) has not yet formally issued educational and general (E&G) expense data for academic year 1979-80, although such data are currently available. If that is in fact the case, we believe NCES should be directed to issue E&G data for academic year 1979-80 on a priority basis, or the Secretary should make liberal use of the statutory waiver authority for the E&G factor in the eligibility formulae.

Our second concern in the institutional eligibility area relates to the definition of "substantial percentage" in determining the student characteristic of the eligibility formulae. The NPRM provides that "substantial percentage" means at least 35 percent of an institution's undergraduate students who were enrolled as at least half-time students and were eligible for and received Pell Grants or Campus-based program support in a given year. The authorizing statute contains no such percentage and we believe that the definition of "substantial percentage" is so critical to institutional participation that additional analysis and explanation are needed before the definition becomes final.

Achieving Self Sufficiency

The NPRM requires that institutions applying for a short term development grant show evidence that they are moving toward self-sufficiency by the end of the proposed grant period. Institutions applying for a long term development grant must show evidence that they are becoming self-sufficient by the end of the proposed grant period. This provision has the effect of requiring institutions to achieve self-sufficiency by a certain deadline and forcing institutions to "graduate" from the program. There is no such requirement in the authorizing statute, rather it states that the program's purpose is "to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation" [Sec. 311 (a)].

Funding Availability

The NPRM will require implementation of a new system for disbursing funds to qualified applicants that will cause the monies set aside for certain types of institutions to return to the Treasury if they are unused. Although we continue to believe that such set-asides are not good public policy, we understand that you have little choice in the matter because the statute authorizes them. However, many qualified institutions which are not beneficiaries of the set-asides will be adversely affected if unused set-aside funds are returned to the Treasury instead of being allocated under the competition formulae. We urge you to allow unused set-aside funds to be included in the general program funds.

Ms. Alfreda M. Liebermann
September 16, 1981
Page Three

Challenge Grants

The proposed regulation for the Challenge Grants Program will place additional and unneccessary administrative burdens on institutions. First, an institutuion must show evidence that other matching funds are actually in hand before it applies for the federal match. Second, the NPRM states that the matching financial support must be from "previously unavailable sources," a requirement which has no statutory basis; and third, development offices are not allowed the use of Challenge Grants. We believe the NPRM should be clarified to avoid imposing unneccesary new paperwork and administrative burdens on institutions.

These comments have been specifically endorsed by:

Association of Catholic Colleges and Universities
Association of Jesuit Colleges and Universities
Council of Independent Colleges
National Association of Schools and Colleges
of the United Methodist Church

Sincerely,

John Phillips
NAICU President

Senator DENTON. We have asked all five of you to sit as a panel and that you please limit your opening oral remarks to 5 minutes. Your full written statements will be included in the official record of the hearings. When you finish your opening statements, I will offer questions to you as a panel.

Dr. Kennedy, would you care to lead off?

STATEMENT OF YVONNE KENNEDY, PRESIDENT, S. D. BISHOP STATE JUNIOR COLLEGE, MOBILE, ALA., REPRESENTING THE ALABAMA DEPARTMENT OF EDUCATION AND THE AMERICAN ASSOCIATION OF COMMUNITY AND JUNIOR COLLEGES; THOMAS K. HEARN, JR., VICE PRESIDENT FOR UNIVERSITY COLLEGE, UNIVERSITY OF ALABAMA, BIRMINGHAM, ALA.; ELIAS BLAKE, PRESIDENT, CLARK COLLEGE, ATLANTA, GA., AND MEMBER, BOARD OF DIRECTORS, UNITED NEGRO COLLEGE FUND, REPRESENTING THE UNITED NEGRO COLLEGE FUND; WILLIAM P. HYTCHE, CHANCELLOR, UNIVERSITY OF MARYLAND, EASTERN SHORE, PRINCESS ANNE, MD., AND SECRETARY, BOARD OF DIRECTORS, NATIONAL ASSOCIATION FOR EQUAL OPPORTUNITY IN HIGHER EDUCATION, REPRESENTING THE NATIONAL ASSOCIATION FOR EQUAL OPPORTUNITY IN HIGHER EDUCATION; AND ELGIN BADWOUND, PRESIDENT, OGLALA SIOUX COMMUNITY COLLEGE, KYLE, S. DAK., AND PRESIDENT, AMERICAN INDIAN HIGHER EDUCATION CONSORTIUM, REPRESENTING THE AMERICAN INDIAN HIGHER EDUCATION CONSORTIUM, A PANEL

Dr. KENNEDY. Thank you, Senator Denton.

Senator Denton and members of this distinguished subcommittee, I am Yvonne Kennedy, the president of S. D. Bishop State Junior College, located in the hometown of Senator Denton—Mobile, Ala. I certainly want to thank you for giving me this valuable opportunity to appear before you to express major opinions regarding proposed regulations for title III of the Higher Education Act of 1965, as amended and printed in the July 20, 1981, edition of the Federal Register.

My presentation here today is intended to be representative of the collective thoughts of various affected and concerned Alabama State junior colleges and universities, and is given exclusively for several organizations; namely, the Alabama Department of Education, S. D. Bishop State Junior College, and the American Association of Community and Junior Colleges.

We are particularly appreciative to U.S. Senator Jeremiah Denton for having invited us to participate in this public hearing. Senator Denton, it is extremely encouraging for the people of Alabama to have the assurance of your support in an area so crucial as title III to the strengthening of our State junior colleges.

My testimony really focuses on specific proposed rules which will impact adversely upon the title III eligibility of 2-year and 4-year colleges that have traditionally participated in title III funding.

Very briefly, the following are some problem areas for Alabama community and junior colleges and 4-year colleges and universities, as perceived by each of the participating institutions.

To begin with, the terms "base year" and "self-sufficiency" are defined in an unclear and rather inadequate manner, and therefore need to be redefined. A mechanism, also, for evaluating and weighting the long-range plan needs to be determined.

The stipulation that at least 35 percent of students eligible for Pell grants must receive such grants is arbitrary and absolute and does not appear to be an equitable criterion. The term "average Pell grant" needs to be clarified. The criterion that the average Pell grant of students must be greater in the base year than those received at comparable institutions appears unfair, in that the average award for a particular low-income student attending a college that charges low tuition and to which the student commutes would be much lower than the award for that same student attending a college which charges high tuition and at which the student resides in a dormitory.

Consequently, at a time when U.S. President Ronald Reagan is emphasizing States rights, the public junior colleges in Alabama should not be made to suffer by title III as the proposed regulations would cause simply because the State of Alabama has decided to provide education to all students who desire such at the lowest cost possible.

Hence, it is unfair for Alabama public junior colleges to be punished for doing good; that is, be made ineligible for titie III funding because the average Pell grant is made low by their going the extra mile and making extra efforts to educate low-income students by charging low tuition. You will find that similar problems also exist in the States of California and Arizona.

Amendments to title III of the Higher Education Act being considered by Senator Denton will alleviate many of the problems outlined in this testimony. Therefore, we strongly would urge the passage of the two amendments being considered.

In summary, may I present the following recommendations to you on behalf of the Alabama Department of Education and the several organizations that I represent here today? These suggestions are designed to alleviate the problems with the proposed title III regulations which have been cited in this testimony.

One: retain the point system method of eligibility determination used in the most recent competition for the strengthening program, rather than the several separate criteria for each program as now published. Adoption of this recommendation would make possible the weighting of factors called for in the act, and would reflect more accurately the status of the institution. Should the point system not be retained, 2-year public colleges should be subdivided by tuition cost and commuter students versus dormitory students for purposes of grant average definition.

Two: use 1980–81 as the base year for eligibility determination in all programs. Should this not be possible, then use 1979–80 as the base year for eligibility determination.

Three: "self-sufficiency" should be defined as complete programmatic development, and not as complete institutional development, which would enable the institution to make application and possibly receive title III funds so long as programmatic development is needed in specific areas.

Four: reduce to 5 percent, or not more than 10 percent, the percentage of undergraduate students receiving assistance under the campus-based programs as an eligibility criterion for the special-needs program. Especially in Alabama, the restrictions on funding of these programs make these inaccurate indicators of student need.

Finally, five: due to the complexity of the Pell grant eligibility and its relationship to a college's developing status, it may be appropriate to consider a waiver of the Pell grant requirement in a manner that is similar to the waiver provisions for educational and general expenditures.

Mr. Chairman, I thank you for having had this privilege to present this collective testimony to you regarding the title III proposed amendments and regulations.

[The prepared statement of Dr. Kennedy follows:]

State of Alabama
Department of Education
State Office Building
Montgomery, Alabama 36130

Wayne Teague
State Superintendent of Education

STATEMENT OF

DR. YVONNE KENNEDY

PRESIDENT, S. D. BISHOP STATE JUNIOR COLLEGE

STATE OF ALABAMA

ON BEHALF OF

BISHOP STATE JUNIOR COLLEGE

DR. WAYNE TEAGUE
STATE SUPERINTENDENT OF EDUCATION

and

AMERICAN ASSOCIATION OF COMMUNITY AND JUNIOR COLLEGES

before the

SUBCOMMITTEE ON EDUCATION, ARTS, AND THE HUMANITIES

of the

LABOR AND HUMAN RESOURCES COMMITTEE

UNITED STATES SENATE

October 29, 1981

REGARDING PROPOSED REGULATIONS FOR TITLE III INSTITUTIONAL AID PROGRAMS

TESTIMONY TO THE SUBCOMMITTEE ON EDUCATION, ARTS, AND THE HUMANITIES

The Honorable Robert T. Stafford, Chairman
United States Senate

October 29, 1981

by

Yvonne Kennedy
President, S. C. Bishop State Junior College

on behalf of the
Alabama Department of Education
S. D. Bishop State Junior College
American Association of Community and Junior Colleges

Mr. Chairman and members of this distinguished Subcommittee, may I thank each of you for giving me this valuable opportunity to appear before you to express major opinions regarding proposed regulations for Title III of the Higher Education Act of 1965, as amended, as printed in the July 20, 1981, issue of the Federal Register. My presentation here today is believed to be representative of the collective thoughts of various affected and concerned Alabama State Junior Colleges and Universities and is given exclusively for several organizations; namely Alabama Department of Education; S. D. Bishop State Junior College; and the American Association of Community and Junior Colleges. We are particularly appreciative to the United States Senator Jeremiah Denton for his having invited us to participate in this public hearing. It is extremely encouraging for the people of Alabama to have the assurance of support from Senator Denton in an area so crucial as Title III is to the strengthening of State junior colleges.

The opinions expressed by me today address the impact of proposed regulations promulgated for the Institutional Aid Programs under Title III of the Higher Education Act of 1965, as the impact is perceived by persons who have been directly involved with Title III funding over the last several years. Since receiving the proposed Title III regulations in the July 20, 1981, edition of the Federal Register, several conferences and workshops have been conducted for the purpose of reviewing and critiquing Title III regulations. Some of the recommendations included in this presentation are results of these meetings. Such critique of the proposed regulations has revealed potential negative impact on those very institutions for which initial legislation by Congress was enacted to grant Title III funding at the outset of the Title III program. In essence, the impact of several specific proposed regulations is to threaten the continuation of Title III funding by making all Alabama public junior colleges ineligible to submit applications as we understand the published regulations.

At this point, my testimony will focus on specific proposed rules for Institutional Aid Programs, included in the Federal Register, Volume 46, No. 138, Monday, July 20, 1981, 34 CFR Parts 624, 625, 626, and 627, Title III, pages 37470-37482, which will impact adversely upon the Title III eligibility of two-year and four-year colleges that have traditionally participated in Title III funding. The discussion which follows presents the problems with the current proposed rules - identified by parts, the reason such problems exist and the need for revisions of the proposed regulations.

Part 624.6 - Subpart A: There is a problem with the definition of "Based Year" meaning "... a 12-month period ending on June 30 of the year identified by the Secretary through a notice in the Federal Register." The problem created by this language is that data could be used from any year to determine the institution's eligibility for Title III funds. Data from fiscal years prior to 1979-80 may no longer reflect accurately the economic status of the institution.

There is also a problem with the definition of "self-sufficient" - the point at which, in the determination of the Secretary, an institution should be able to survive without funding under the Institutional Aid Programs. The problem is that this definition is too vague and subjective. "Self-sufficient should be defined to refer to the development of a specific funded program until the funded program no longer requires Title III funding for continuation."

Part 624.22 - Subpart C: The long-range plan shall include the institution's description of its strategy for achieving self-sufficiency. There is a problem with developing such a long-range plan as long as the term self-sufficient remains unclear.

Part 624.32 - Subpart D: As much weight will be placed on the long-range plan by the Secretary to assure that the long-range plan provides for self-sufficiency, more specific criteria could be provided to indicate how the long-range plan will be evaluated or weighted. These criteria, including a more clearly defined meaning of the term "self-sufficiency", should be known in enough time for the institution to use this information in writing their long range plans and the Title III program.

Part 625.2 - Subpart A: Regarding institutional eligibility for program participation, there is a serious problem with the proposed criterion that "...at least 35 percent of its (the colleges) undergraduate students who were enrolled as at least half-time students and were eligible to apply for Pell Grants in the base year received Pell Grants in that year." In our view, this figure is arbitrary and absolute -- it could be effected easily by changing appropriations levels and economic conditions, over which students and colleges have little or no control. In addition, the 35 percent does not appear to be an equitable criterion because students' budgets differ from region to region, i.e., variations in tuition, residential students have higher budgets than commuter students, and the variations of quarter and semester system.

The method of computation for all requested data need clarification. For example, in computing 35 percent of the students enrolled at least half time, should we use Fall Quarter enrollment figures or cumulative enrollments for the entire year. The designation of the fall enrollment data as the basis for determining the number of students enrolled half-time would be helpful and would be more easily validated information. These data are submitted by each college each fall under the Higher Education General Information Survey (HEGIS).

A specific example of the inequity of the 35 percent designation is illustrated on the Chart for S.D. Bishop State Junior College, which is included as the appendix to this testimony. Note that although Bishop State would meet the 35 percent receiving, it is highly unlikely that the average award will be higher than that at comparable institutions.

The proposed criterion that states the institution's "...average Pell Grant received by its students in the base year was greater than the average Pell Grant received by students at comparable institutions in that year" presents a problem from several different perspectives. Clarification of the term average Pell Grant would be helpful. Should the determination be made that the average Pell Grant is calculated by dividing the total annual award by the number receiving the grant, then this would be weighted to favor the high tuition and residential institutions over the low tuition, primarily commuter State junior/community colleges which we have in Alabama. The use of average grant size constitutes an inequitable criterion. For example, the average award for a particular low-income student attending a college that charges low tuition and to which the student commutes would be much lower than the award for that same student attending a college which charges high tuition and at which the student resides in a dormitory.

Consequently, at a time when United States President Ronald Reagan is emphasizing States Rights, the public junior colleges in Alabama should not be made to suffer by Title III, as the proposed regulations would cause, simply because the State of Alabama has decided to provide education to all students who desire such at the lowest cost possible. Hence it is unfair for Alabama public junior/community colleges to be punished for doing good; i.e., be made ineligible for Title III funding because their average Pell Grant is made low by their going the "extra mile" in making extra efforts to educate low-income students by charging low tuition.

In addition, Part 625.2 (b) specifies that double-weighting will be given to the criterion relating to Pell Grants. Double weighting does not appear possible as the proposed rules are written. However, such double-weighting was accomplished very effectively in the eligibility determination points system used in the most recent Strenghthening Developing Institutions Program (SDIP) competition.

Part 626.2 (2-ii) - Special Needs Program. The criterion that "at least 35 percent of its undergraduate students who were enrolled as at least half-time students and were eligible to apply for student financial assistance under one or more of the Campus-Based programs ... in the base year received assistance under the campus based programs in that year" presents a problem for S. D. Bishop State Junior College. As indicated on the chart in the Appendix, Bishop State would not meet the 35 percent eligibility criterion. The reason that the college would not meet such a requirement is due to the low tuition costs. Most of the financial needs of the Bishop State students are satisfied with the Pell Grants.

At other very low-cost institutions, such as the two-year public colleges in Arizona and California, Pell Grants often cover the "financial need: of students from even the lowest income families to the "low cost of attendance" allowance provided under the Pell regulations for students who commute. No further financial assistance can be provided to those students under the campus based programs. Also, some needy students tend not to apply for campus-based aid, despite their eligibility and the colleges' efforts to make them aware. One reason is that their true financial need is so great that more income is required than can be obtained under work study.

Part 627.20 (2) Challenge Grant Program: The prerequisite that an institution must assure that its matching funds for the Challenge Grants are "from new sources previously unavailable to the institution" appears unfair. What happens if an institution had previously received funds from a source for a specific purpose, and the same source would be willing to provide additional funds to the institution for another purpose, if the institution could receive matching funds from Title III? Under this "new sources" requirement, would the institution lose the opportunity for those funds simply because they would not come from a new source?

Amendments to Title III of the Higher Education Act being considered by Alabama's Senator Jeremiah Denton will alleviate many of the problems outlined in this testimony. We strongly urge the passage of the two amendments listed below if the problems with regulations cannot be worked out in negotiation with the U. S. Education Department.

1. Sections 322(a)(2)(A)(i)(I) and 322(a)(2)(A)(i)(II) of the Higher Education Act of 1965 are amended by deleting the phrase ", the average amount of which assistance is high in comparison with the average amount of all assistance provided under such title to students at such institutions".

2. It is the intent of Congress that the Secretary, in determining the average amount of a Pell Grant for purposes of sections 312(2)(A)(i)(I) and 312(2)(A)(i)(II), may consider factors not related to income, such as an institution charging little or no tuition or enrolling many part time students, and adjust the average accordingly. Further, it is the intent of Congress that the average Pell Grant is not required to be higher than the national average for purposes of determining eligibility under section 312.

In summary, may I present the following recommendations to you, on behalf of the State Department of Education and the several organizations that I represent here today. These suggestions are designed to help alleviate the problems with the proposed Title III regulations, which have been cited in this testimony:

1. Use 1980-81 as the base year for eligibility determination in all programs. Should this not be possible, then use 1979-80 as the base year for eligibility determination. It is our feeling that no earlier year should be used, because to do so would not provide so accurate a reflection of the institution's status as would the use of 1980-81 data or, as an alternate, 1979-80 data.

2. Self-Sufficiency should be defined as complete programmatic development, and not as complete institutional development, which would enable the institution to receive Title III funds as long as programmatic development is needed in specified areas.

3. The E and G expenditures per full-time equivalent undergraduate student should be retained as an eligibility criterion for both the Strengthening Program and the Special Needs Program because it constitutes an accurate reflection of resources available at any institution to support the educational program.

4. Reduce to 5%, or not more than 10%, the percentage of undergraduate students receiving assistance under the campus-based programs as an eligibility criterion for the special needs program. As you realize, the restrictions on funding of these programs make these inaccurate indicators of student need -- especially in Alabama.

5. Retain the method of eligibility determination used in the most recent competition for the Strengthening Program. Adoption of this recommendation would make possible the weighting of factors called for in the Act and would reflect more accurately the conditions or the status of the institution.

6. Due to the complexity of the Pell Grant eligibility and its relationship to a college's developing status, it may be appropriate to consider a waiver of the Pell Grant requirements in a manner that is similar to the waiver provision for educational and general expenditures.

Mr. Chairman and members of this distinguished Subcommittee, I thank you for having had this privilege to present this collective testimony to you regarding the proposed Title III regulations.

APPENDIX

S. D. BISHOP STATE JUNIOR COLLEGE
351 NORTH BROAD STREET
MOBILE, ALABAMA 36690

PELL GRANTS

YEAR	NUMBER OF STUDENTS AT LEAST ½ TIME ELIGIBLE FOR PELL	NUMBER OF STUDENTS AT LEAST ½ TIME RECEIVING PELL	PERCENT OF STUDENTS AT LEAST ½ TIME RECEIVING PELL	TOTAL AMOUNT OF PELL GRANTS	AVERAGE AWARD	NATIONAL AVERAGE FOR BASE YEAR
1978-79	1,047	1,041	99%	$664,199	$638.00	N/A
1979-80	1,096	1,073	98%	685,557	639.00	N/A
1980-81	952	944	99%	561,155	594.00	N/A

CAMPUS BASED PROGRAMS (CBP)

YEAR	NUMBER OF STUDENTS AT LEAST ½ TIME ELIGIBLE FOR CBP	NUMBER OF STUDENTS AT LEAST ½ TIME RECEIVING CBP	PERCENT OF STUDENTS AT LEAST ½ TIME RECEIVING CBP	TOTAL AMOUNT OF CBP	AVERAGE AWARD	NATIONAL AVERAGE FOR BASE YEAR
1978-79	1,047	301	29%	$212,347	705	N/A
1979-80	1,096	253	23%	146,461	579	N/A
1980-81	952	241	25%	221,239	918	N/A

EDUCATIONAL AND GENERAL EXPENDITURES (E AND G)

YEAR	FTE	*TOTAL E & G EXPENDITURES	AVERAGE E & G EXPENDITURES	E & G EXPENDITURES FOR BASE YEAR
1978-79	1,299	$4,912,064	$3,781	N/A
1979-80	1,293	3,893,755	3,011	N/A
1980-81	1,278	** 5,688,388	4,451	N/A

*Totals reflect both unrestricted and restricted funds.

**For Fiscal Year ending September 30, 1981 (Unaudited).

Senator **Denton**. Thank you, Dr. Kennedy.

Dr. Hearn?

Dr. **Hearn**. Thank you, Senator Denton; thank you for the opportunity to be here. I am Thomas K. Hearn, vice president of the University of Alabama in Birmingham.

Senator Denton, when you visited our campus last year, you expressed a preference for bullets rather than buckshot in forums of this sort, so let me give you a couple of bullets and not go through any of the prepared testimony which is on file and available for your inspection, should you care to read it.

The fact is that we support the amendments as described in Assistant Secretary Melady's testimony almost to the letter, and I can give you perhaps no better help than to illustrate to you, specifically at our institution, some of the problems with this high average award criterion which he described.

The fact is that it describes student need; it does not relate to institutional cost. Once you realize that the average award criterion is a function of both of those—that is to say student need and institutional cost—you are inevitably going to penalize institutions in ways that are inconsistent with the purposes of title III.

UAB, for example, is a commuter institution; our students do not bear as part of their education living and other kinds of costs of that sort. Alabama is, as you know, a relatively poor State. We have low tuition rates, as you know, and we have a great many part-time, working students whose awards are, therefore, relatively low.

Yet, these factors which would work against our eligibility are precisely the indicators that we are serving the title III constituency. We do have a substantial percentage, as defined in the regulations, of our students who are receiving aid. We have 2,500 black students, which is 25 percent of our undergraduate population.

We believe, therefore, that we do indeed serve the purposes of title III. So, the average aid criterion simply works against a number of the program purposes envisioned by the Congress.

Now, second, the effect of these regulations is simply inconsistent with the intent of Congress. The Congress specifically considered turning title III into an entitlement program, simply giving an award on the basis of a formula to eligible institutions, and that was specifically repudiated.

Now, if a decision is made to turn title III into an entitlement program, I do not think that would be a good idea. I think competition serves effective, constructive purposes in this area. But if that decision should be made, it should be made by the Congress up front, on the table, and not by the use of arbitrary and unfair eligibility criteria.

These amendments are absolutely essential if there is going to be honest, open competition in the grant award process. Based on the Department's figures, there would be some 314 4-year institutions eligible under part A to compete for about $45.6 million.

Now, let us assume that of these 314 institutions, about 200 would, for one reason or another, be actually applying. Well, that would mean that every institution that was eligible could be given $225,000 with no review process at all.

Both for the institutions and for the Government, this process of grant preparation and review is an enormously time-consuming and costly process. I think everybody in this room is aware of that, and unless that effort is part of a genuinely competitive process, it amounts to a colossal waste of institutional and Federal time and resources.

Now, we believe that a competitive process is going to enhance the quality of the applications and will give the Department of Education an opportunity to use these Federal resources in ways that will maximally benefit the students and the programs which title III is designed to serve. Therefore, we think that competition for the grants is inherently a good thing for the purposes of title III.

But it should be obvious from the whole history of this program and all of its set-aside provisions that there is no risk to the traditionally black institutions in an expanded applicant pool. Even given these amendments, as the Assistant Secretary indicated, the number of eligible institutions will be no more numerous than in the past, and probably less numerous.

The point is that the institutions which do, in fact, serve these constituent students should, in fact, be permitted to compete for the funds. Now, Senator Denton, we understand that time is short and the appropriate legislative vehicle may be difficult to envision. We think this is important not only to the State of Alabama, as my colleague indicated, and to UAB in particular, but we think it is important to restore integrity to the whole title III process.

We hope, therefore, that you will provide the leadership, given your demonstrated interest in this program, in seeing that this problem is resolved.

Thank you.

[The prepared statement of Dr. Hearn follows:]

STATEMENT OF THOMAS K. HEARN, JR., PH.D.
VICE PRESIDENT
THE UNIVERSITY OF ALABAMA IN BIRMINGHAM

Mr. Chairman, my name is Thomas K. Hearn, Jr., and I am Vice President for University College at the University of Alabama in Birmingham(UAB). I am most pleased to appear before you today to present our views on the difficult and complex issue of Title III eligibility. UAB is one of the member institutions of the National Association of State Universities and Land-Grant Colleges(NASULGC), and a number of NASULGC institutions receive Title III support. This includes sixteen predominantly black colleges and universities established in 1890 by the second Morrill Act; in addition, the NASULGC Office for the Advancement of Public Negro Colleges works on behalf of all of the nation's thirty-five publicly supported predominantly black higher education institutions. Because the amendments under consideration by your Subcommittee were only recently made available, our association has not as yet had time to develop an official position on this matter; however, it is my belief that the views I will present today certainly reflect the interest of publicly-supported colleges and universities and will ultimately be in accordance with the position of the association.

The issue before your Subcommittee today, Mr. Chairman, is how an eligible institution under Title III is to be identified or defined. This is hardly a new problem for this program; under the previous legislation the then Office of Education continuously sought to find precise meaning in phrases such as "isolated from the mainstream of academic life" and

"Struggling for survival." Aware of these difficulties, the Congress in the new legislation placed in law a set of mathematically derived criteria which rigidly define institutional eligibility. The fact, Mr. Chairman, that we are here today and that your Subcommittee finds itself faced with this issue perhaps suggests that this approach too, may not be the final, best answer.

It may be that definitional problems of this nature can only be effectively resolved by the exercise human judgement. I am reminded here of Justice Potter Stewart's conclusion that perhaps he "could never succeed in intelligibly" defining obscenity, but that he did know it when he saw it. Not now perhaps, but at some future time, the Congress may wish to consider using a judgemental process based upon clearly defined program purposes and goals to identify prospective developing institutions.

In making this observation, I do not wish to detract the Subcommittee's attention from what, in our view, is a very real and immediate problem which faces the Title III Program. The simple fact is that under the draft regulations implementing the new legislation there will not be a sufficient number of institutions eligible for the Title III Program to operate in accordance with the intent of Congress. During the drafting of the new legislation, the Congress explicitly considered adopting a non-competitive, formula approach to the distribution of Title III funds among eligible institutions. This approach, which was part of the Senate bill, was rejected, quite properly we think, by the Conference;

INSTEAD, BOTH PARTS OF THE PROGRAM ARE TO OPERATE THROUGH A FAIR, COMPETITIVE REVIEW OF ALL APPLICATIONS SUBMITTED. THIS KIND OF REVIEW CERTAINLY REQUIRES THAT THERE BE ENOUGH INSTITUTIONS APPLYING FOR THE FUNDS TO SUPPORT A VIABLE COMPETITIVE PROCESS.

YET, A CLOSE EXAMINATION OF THE FIGURES PROVIDED BY THE DEPARTMENT CLEARLY SHOW THIS WILL NOT BE THE CASE UNDER THE DRAFT REGULATIONS. FOR EXAMPLE, IN THE ESTIMATE PROVIDED FOR THE STRENGTHENING(PART A) PROGRAM, THERE WILL BE A TOTAL OF 314 FOUR-YEAR INSTITUTIONS ELIGIBLE FOR THE $45,600,000 AVAILABLE TO SUCH INSTITUTIONS UNDER THIS PART. HOWEVER, THIS WILL NOT, IN FACT, BE THE NUMBER OF INSTITUTIONS WHICH WILL ACTUALLY COMPETE FOR THESE FUNDS. SOME, OUT OF LAZINESS, IGNORANCE OR PRINCIPLE, WILL SIMPLY CHOOSE NOT TO APPLY; OTHERS WILL NOT BE ABLE TO APPLY BECAUSE THEY ARE CURRENTLY RECEIVING MULTI-YEAR GRANTS AWARDED WITHIN THE PAST TWO OR THREE YEARS UNDER TITLE III; FINALLY, A SIGNIFICANT NUMBER OF THE ELIGIBLE INSTITUTIONS WILL ALSO BE QUALIFIED FOR THE SET-ASIDE IN PART B FOR TRADITIONALLY BLACK INSTITUTIONS AND WILL HAVE TO BE FUNDED WITH THOSE FUNDS; THEREFORE, THEY WILL NOT BE COMPETITIVE UNDER PART A. WHEN ALL OF THESE FACTORS ARE CONSIDERED, IT MIGHT VERY WELL BE THAT ONLY ABOUT 200 INSTITUTIONS WOULD ACTUALLY MAKE UP THE APPLICANT POOL FOR PART A FUNDS.

IF THIS IS ANYWHERE NEAR ACCURATE, THE DEPARTMENT WOULD BE IN A POSITION TO AWARD EVERY APPLICANT INSTITUTION AN ANNUAL GRANT IN EXCESS OF $225,000; ALTERNATIVELY, IT COULD PROVIDE 75% OF THOSE APPLYING WITH

GRANTS IN EXCESS OF $300,000 ANNUALLY. IN OUR JUDGEMENT, SUCH CIRCUMSTANCES WOULD NOT CONSTITUTE A TRUE COMPETITION; ALTHOUGH I DO NOT HAVE AVAILABLE DEFINITE INFORMATION, IT IS MY GENERAL EXPERIENCE THAT GRANT PROGRAMS OFFERED BY THE DEPARTMENT AND OTHER FEDERAL AGENCIES TYPICALLY ARE ABLE TO FUND PERHAPS ONE OUT OF EVERY TEN APPLICATIONS AND VERY OFTEN EVEN LESS THAN THAT. CERTAINLY, THE PROSPECT OF HAVING TO FUND AS MANY AS 80 OR 90% OF ALL APPLICANTS IS VIRTUALLY UNHEARD OF. THE TASK OF PREPARING A TITLE III APPLICATION IS A DIFFICULT AND EXTENSIVE UNDERTAKING; IT REQUIRES SUBSTANTIAL STAFF TIME AT NO LITTLE EXPENSE. INSTITUTIONS SHOULD NOT BE REQUIRED TO UNDERGO SUCH AN EXERCISE UNLESS IT IS FOR SOME VALID PURPOSE.

PERHAPS THIS PROBLEM WOULD BE OF LESS CONCERN IF THE REASON THAT SO MANY INSTITUTIONS MAY FIND THEMSELVES INELIGIBLE WAS CONSISTENT WITH THE PURPOSES OF THE TITLE III PROGRAM AND THE INTENT OF CONGRESS. WE DO NOT BELIEVE THAT THIS IS THE CASE, PARTICULARLY IN REGARD TO THE ELIGIBILITY CRITERIA THAT ARE BASED UPON THE AVERAGE AMOUNT OF FEDERAL STUDENT ASSISTANCE RECEIVED BY STUDENTS AT AN INSTITUTION. UAB IS A GOOD CASE IN POINT HERE IN THAT THERE ARE A NUMBER OF FACTORS, UNRELATED TO PROGRAM PURPOSE, WHICH TEND TO REDUCE THE AMOUNT OF AID RECEIVED BY OUR STUDENTS. FIRST, UAB IS AN UNDERGRADUATE COMMUTER INSTITUTION AND THE URBAN STUDENTS WHICH WE SERVE DO NOT HAVE TO BEAR THE EXPENSE OF LIVING AWAY FROM HOME. SECOND, BECAUSE WE SERVE A STATE AND AREA WITH RELATIVELY LOW FAMILY INCOME LEVELS, WE HAVE ALWAYS ATTEMPTED TO KEEP OUR TUITION AS LOW AS POSSIBLE IN ORDER TO MAKE IT EASIER FOR STUDENTS FROM POOR FAMILIES TO ATTEND. THIRD, A GREAT MANY OF OUR STUDENTS ATTEND ONLY PART-TIME

BECAUSE THEY MUST WORK TO SUPPORT THEMSELVES AND THEIR FAMILIES; HOWEVER, MANY SUCH STUDENTS ARE NONETHELESS ELIGIBLE FOR AND DO RECEIVE FEDERAL STUDENT AID BUT IN RELATIVELY REDUCED AMOUNTS BECAUSE OF THEIR LOWER TUITION PAYMENTS. EACH OF THESE THREE FACTORS WORK AGAINST OUR CHANCES OF MEETING THE AVERAGE AMOUNT OF AID CRITERIA; YET, NONE OF THEM ARE ANYTHING BUT TOTALLY CONSISTENT WITH THE PURPOSES OF TITLE III.

I SHOULD ADD HERE THAT A "SUBSTANTIAL PERCENTAGE", AS DEFINED IN THE DRAFT REGULATIONS, OF OUR STUDENTS ARE CURRENTLY RECEIVING NEED-BASED FEDERAL STUDENT AID; IN ADDITION, OVER 2,500, OR ALMOST 25%, OF OUR UNDERGRADUATES ARE BLACK, CERTAINLY ONE OF THE LARGER SUCH PERCENTAGES OF ANY PREDOMINANTLY WHITE INSTITUTION IN THE NATION.

I BELIEVE BY NOW, MR. CHAIRMAN, THAT OUR VIEWS CONCERNING THE PROPOSED AMENDMENT WHICH WOULD DELETE THE AVERAGE AMOUNT OF AID CRITERIA FROM THE TITLE III LEGISLATION SHOULD BE REASONABLY APPARENT: WE ARE STRONGLY SUPPORTIVE. IN OUR VIEW, THE AMENDMENT WOULD ACCOMPLISH TWO LAUDABLE RESULTS; FIRST, IT WOULD EXPAND SOMEWHAT THE NUMBER OF INSTITUTIONS ELIGIBLE FOR TITLE III SUPPORT. BASED ON THE ESTIMATES PROVIDED WITH THE AMENDMENT, IT WOULD APPEAR THAT THE DEPARTMENT, EVEN WITH SUCH AN EXPANDED NUMBER, COULD STILL SUPPORT FROM ONE-THIRD TO ONE-HALF OF THE TOTAL NUMBER OF APPLICANTS. SECOND, THE AMENDMENT WOULD ELIMINATE THE UNFAIR DISCRIMINATION AGAINST INSTITUTIONS WITH RELATIVELY LOW COSTS AND/OR SIGNIFICANT NUMBERS OF PART-TIME STUDENTS.

WE ARE AWARE, MR. CHAIRMAN, THAT, AS IS USUALLY THE CASE IN TITLE III, THERE WILL BE A VARIETY OF OPINIONS ON THIS SUBJECT WITHIN THE HIGHER EDUCATION COMMUNITY. FOR EXAMPLE, SOME MAY AGREE THAT PROBLEMS

EXIST WITH THE ELIGIBILITY CRITERIA AND THAT THE APPLICANT POOL SHOULD BE EXPANDED BUT WOULD USE DIFFERENT APPROACHES IN ORDER TO ACCOMPLISH THIS END. OUR REPLY TO SUCH VIEWS IS THAT, INDEED, THE CONGRESS MAY, AT A LATER DATE, WISH TO CONSIDER IN A MORE DELIBERATE FASHION THE ENTIRE QUESTION. HOWEVER, FOR NOW, IT APPEARS TO US THAT THE LEGISLATIVE TIME FRAME IS VERY SHORT, AND WE WOULD HOPE THERE COULD BE A RESOLUTION TO PRESS FORWARD WITH THIS PROPOSAL RATHER THAN DELAY MATTERS AND RISK NO SOLUTION BEING FOUND TO A VERY REAL PROBLEM.

WE UNDERSTAND ALSO THAT SOME WOULD ACTUALLY SEEK TO REDUCE THE NUMBER OF ELIGIBLE APPLICANTS EVEN BELOW THAT WHICH WOULD RESULT FROM THE DRAFT REGULATIONS. THIS VIEW, WHICH WE UNDERSTAND IS HELD BY SOME GROUPS OF PREDOMINANTLY BLACK INSTITUTIONS, WOULD EFFECTIVELY TURN TITLE III INTO AN ENTITLEMENT PROGRAM. ALTHOUGH WE WOULD OPPOSE IT, PERHAPS A CASE CAN BE MADE FOR SUCH A RESULT; HOWEVER, THIS WAS CERTAINLY NOT THE INTENT OF CONGRESS IN ENACTING THE 1980 LEGISLATION, AND WE DO NOT FEEL THAT IT SHOULD BE ACCOMPLISHED THROUGH THE BACK DOOR BY THE USE OF UNFAIR ELIGIBILITY CRITERIA. NOR, BY THE WAY, DO WE FEEL IT WOULD PROVE ULTIMATELY BENEFICIAL TO EVEN THESE INSTITUTIONS.

I WOULD ALSO RESPECTFULLY REMIND THOSE WHO HOLD THIS VIEW THAT WE AT UAB USE OUR TITLE III SUPPORT TO PROVIDE OUR STUDENTS, OVER 2,500 OF WHOM ARE BLACK AND MOST FROM LOW INCOME FAMILIES, WITH A RANGE OF SERVICES TO ASSIST THEM IN OVERCOMING PREVIOUS LACK OF ACADEMIC PREPARATION AND TO SUPPORT THEM IN EFFORTS TO PREPARE FOR CAREERS IN PROFESSIONS SUCH AS ENGINEERING, ACCOUNTING AND COMPUTER SCIENCE. WITHOUT TITLE III, WE WOULD NOT ABE ABLE TO PROVIDE THESE SERVICES AND MANY OF THESE STUDENTS WHO ARE PRESENTLY EXPERIENCING ACADEMIC SUCCESS WOULD BE LOST.

WE ARE ALSO GENERALLY SUPPORTIVE OF THE SECOND AMENDMENT PRESENTLY UNDER CONSIDERATION BY YOUR SUBCOMMITTEE. I WOULD NOTE, HOWEVER, THAT THE ORIGINAL INTENT OF INSERTING THE WORD "UNDERGRADUATE" RELATED TO THE PARTICULAR CIRCUMSTANCES OF AN INSTITUTION LIKE UAB, WHICH, AS YOU KNOW, IS ACCREDITED WITH A SEPARATELY FUNDED ACADEMIC MEDICAL CENTER. THIS INTENT WAS MADE CLEAR BY THE CONFERENCE REPORT(96-1337) ON PAGE 161:

> CLEARLY, THE INTENT OF THE CONFERENCE...WAS THAT THE SECRETARY SHOULD NOT CONSIDER INSTITUTIONAL EXPENDITURES FOR HIGH COST PROFESSIONAL TRAINING SUCH AS MEDICAL, DENTAL AND LEGAL PROGRAMS WHICH ARE ORGANIZED, BUDGETED AND CONDUCTED SEPARATELY FROM REGULAR GRADUATE AND UNDERGRADUATE INSTRUCTION.

WE ARE INFORMED THAT, SHOULD THE PROPOSED AMENDMENT STRIKING THE WORD "UNDERGRADUATE" BE APPROVED, THAT THE INTENT OF CONGRESS WOULD BE PRESERVED THROUGH THE USE OF THE WAIVER PROVISION AVAILABLE TO INSTITUTIONS WHICH FAIL TO MEET THE CRITERION RELATED TO EDUCATIONAL AND GENERAL EXPENDITURES.

AGAIN, MR. CHAIRMAN, I DEEPLY APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THE SUBCOMMITTEE TODAY. I WOULD LIKE TO CONCLUDE SIMPLY BY URGING YOU TO GO FORWARD WITH THESE AMENDMENTS USING WHATEVER LEGISLATIVE VEHICLE MAY BE AVAILABLE. THEY ARE CLEARLY NEEDED VERY BADLY, AND IT IS OUR VIEW THAT, WHEN THEIR PURPOSE AND EFFECT ARE MORE CLEARLY KNOWN, SUPPORT FOR THEM WILL INCREASE PROPORTIONATELY. CERTAINLY, WE WILL DO EVERYTHING WE CAN TO WORK TOWARD THIS END.

I WOULD NOW BE HAPPY TO TRY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

Senator **Denton**. Thank you, Dr. Hearn. There is a lot to learn; I am interested. I am not going to make any sweeping personal decisions until I learn a good bit more, but I am in touch with the people from whom to learn and I am grateful for that.

Dr. Blake, your opening statement, please, sir.

Dr. **Blake**. Thank you very much, Senator Denton, for inviting us to testify on this particular issue.

I would like to do two things. You have my prepared testimony, as well as that of Dr. Hytche. I would like to indicate first off that having heard and having looked at Dr. Melady's testimony, we have heard for the first time this morning the probable impact of the amendment to drop the high average criterion. We had not seen those kinds of data before, nor had we heard any analysis of it.

Our testimony is based on the fact that we did not know what the impact of these particular kinds of amendments would be. We would still like to review the impact and return to you our views on, specifically, the high average criterion in terms of what I understand to be Pell grants, and high average figures in relationship to the campus-based programs.

We have, of course, seen in Dr. Melady's testimony the figures about the effect of the current eligibility criteria on historically black colleges, also for the first time this morning.

Therefore, we would hope that we would have an opportunity to look at that and then return with some testimony on it. I would like, then, rather than to follow the testimony which I have given, to make a couple of points which I think are important to us.

One is that, historically, we have always viewed the developing institutions program as one which should focus on institutions whose primary mission and role is in equalizing educational opportunity for low-income and minority students. It has always been our view that that was the primary and the basis purpose of title III from the very beginning.

Insofar as eligibility criteria are fashioned which would focus on institutions which have that as their primary role as institutions, then we would support such amendments and such eligibility criteria. Our concern has been that the eligibility criteria be drawn in such a way that the program does, in fact, focus most heavily on those institutions which carry the heaviest burdens for educating low-income and minority students as their total institutional focus.

Our concern that we would express about the amendment that has been put forward is that some device be found to insure that institutions which are inappropriate not be pulled into the eligibility pool.

In listening to the testimony and looking at Dr. Melady's testimony, it appears that it may be possible for institutions which have a large number of small BEOG's in an income population that is relatively high—that is, the income distribution may be relatively high, and therefore you have a large percentage of small BEOG grants. That is not the kind of institution that I think it was intended that the program would serve.

We do not know whether that would be a factor or not, not having seen any detailed analysis. But we think that something would need to be done, I think, to deal with that as a problem because that goes to a different population of schools.

One way in which we feel that that kind of thing could be avoided would be to support using the 45-percent Pell grant criterion in the eligibility criteria as opposed to the 35-percent criterion for Pell grants.

Listening to the discussion this morning, if one uses the 45 percent of Pell grants as a criterion, there should probably be some discussion or some look at having a different definition of "substantial" for the campus-based programs. It does not follow that both of these would need to be identical. Having different percentages for all grants and the campus-based programs may, after review, solve the problem which was pointed out. That is, having a 45-percent criterion for both the Pell grants and the campus-based programs would then reduce the eligibility pool to one which does not seem to be reasonable. But if one does not use the same criterion for both, then it may be that we have a device which would avoid inappropriate schools coming into the pool and still serve the purposes which have been put forward this morning.

Our concern is that the amendments do not move in the opposite direction; that is, to broaden the eligibility pool both as to types of institutions and to numbers of institutions, which would have the opposite effect; that is, having so many schools competing for funds that the small size of the grants would not enable schools to make effective use of this particular program.

The figures that we have heard this morning suggest that that would not occur. We, again, as I say, have seen those figures for the first time.

Basically, in summary, I think we would strongly support that the 45-percent criterion for Pell grants be used as the eligibility criterion; two, that we have some opportunity to review the impact of the high average impact; and, three, that some consideration be given to the possibility of a different criterion in defining the substantial percentage for campus-based programs as opposed to the Pell grant program.

Our interest, as I indicated, is that the title III program still be maintained as a program which focuses on those institutions whose primary mission it is to educate low-income, minority and black youth.

[The prepared statement of Dr. Blake follows:]

Presented by:

Dr. Elias Blake, President
Clark College

Representing
The United Negro College Fund (UNCF)

Mr. Chairman, I am Dr. Elias Blake, President of Clark College in Atlanta, Georgia, and a member of the Board of Directors of the United Negro Fund and will represent its views. I am pleased to be here to comment on the eligibility criteria under the Title III Institutional Aid Program of the Higher Education Act.

The UNCF opposes any changes to the eligibility criteria in Title III at this time, because we do not know the impact of such changes. We cannot go into any detail regarding the proposed Amendment, because we have not been able to obtain detailed data on how this Amendment will impact on our institutions. We feel it is inappropriate to discuss the merits or short-comings of the proposed Amendment in great depth, until such information is forthcoming. We are hopeful that this Committee will invite us back to testify on the merits of this Amendment when appropriate data are obtained.

Title III went through one of the most extensive reviews of its existence when it was substantially altered, with passage of the Higher Education Act of 1965 as Amended in 1980.

The development of this new legislation took about two years with oversight hearings and many lengthy articles in the press. We feel that as a result of the depth of inquiry and concern targeted on Title III that an equitable way was forged that would accomplish most of the objectives of those who sought to have input.

The program was expanded to include a wider universe of institutions: junior and community colleges now have an even larger set-aside; black colleges will continue to participate in the program and an initiative, in part, conceptualized by the UNCF was actualized in the form of the new Challenge Grant Program. It intends to encourage closer cooperation between the private sector and the federal government in the financing of higher education.

At this point in time, the new Title III Program implementation has already been delayed a year, because regulations were not drafted. Preliminary regulations have now been produced by the Department of Education and are close to finalization.

We would have to be shown in some detail that the Amendment would, in fact, not broaden the Program to large numbers of institutions whose average BEOG is low, because they serve substantial numbers of students with higher incomes, thereby, making their BEOG's small.

Though their tuition is higher than public institutions, UNCF schools still charge lower than average tuition, because of their low-income clientele. This makes a source of funding such as Title III even more critical. We must fund a larger proportion of our budgets from non-tuition sources.

Any legislative changes at this moment, we think, will only jeopardize further implementation of the new Title III program.

We believe to be even more important, our comments to the Department of Education on its proposed Title III regulations. The United Negro College Fund requested that Title III funds be focused on institutions with at least 45 percent Pell Grant recipients. This would follow the intent of the Senate during its debate and is noted in the Congressional Record, June 27, 1980, p. S-7890. The base of eligibility should be students actually receiving financial assistance, rather than students eligible, but not receiving aid.

One of the primary purposes of the Program in its inception was to provide financial assistance for the historically black colleges and universities. Only to a partial extent has it succeeded in achieving this end. Because it is difficult to define the terms "developing" or "struggling" succinctly, the array of colleges and universities receiving Title III awards has become very broad. Larger and larger numbers of smaller colleges and universities serving a more middle-class student populations are applying for and receiving grants under Title III. In addition, Congress has mandated junior and community colleges a guaranteed floor allocation of 24 percent of the assistance under Part A - Strenthening Institutions, and 30 percent of the assistance under Part B - Special Needs.

In addition, colleges and universities which provide educational services for Spanish-speaking and American Indian students have become eligible for Title III funds. Clearly, the program must have some targeting to remain effective. If the number of schools is expanded too much at the present level of funding, we are fearful that future grant sizes will diminish and so will program effectiveness.

Clearly, Congress should increase the Title III appropriation and intensify the focus of Title III for the support primarily of schools serving large proportions of low-income students. Historically black colleges and universities under that approach would be given priority both in eligibility and in funding strategies. This view is supported by the Administration.

The Challenge Grant Program of Title III must be amended to allow institutions to implement an endowment plan. This would permit institutions to sustain, in the future, the responsibilities with which they are to be further burdened due to inflation and increasing general operating costs. The income from investments of the federal grants and private loans would be used in part to build an unrestricted endowment fund for the participating institutions.

The historically black colleges and universities are different. They emphasize supportive teaching programs for students who are generally poor and need a supportive environment to attain their full potential as productive, self-sufficient citizens. They offer an effective experience which nutures and motivates students to achieve. The historically black institutions are committed to teaching and often, especially in the private institutions, to creative and novel forms of remedial education. They provide access and opportunity for many who otherwise would not receive a college education.

The number of institutions both willing and able to produce college graduates out of such populations is limited and their value in creating upward mobility cannot be over estimated. These are the places on which Title III should be focused.

Mr. Chairman, President Reagan, and Vice-President Bush have issued many statements in support of the historically black colleges and universities. The Administration has stressed particular support for increasing funding to the black colleges and universities, not only in Title III, but in all federal programs. This support for the black colleges and universities by the White House and members of Congress is a result of a clear understanding of the central role these institutions play in their states and in the nation in closing the educational gap between Black and White Americans.

Thank you.

Senator DENTON. Dr. Blake, your new perspective based on what you heard this morning can be reflected in anything you submit to us within 10 days. That is the normal timeframe for posthearing comments. I appreciate your not having heard what the administration's clarified position was, so you would have 10 days in which the record would be kept open to submit further opinion on it. Thank you very much for your testimony.

Dr. Hytche?

Dr. HYTCHE. Mr. Chairman, in view of the fact that what has been said, again, is the first time that I have heard it, I too would like to withdraw this and get up-to-date testimony to you, so to speak.

Senator DENTON. All right. Do you associate yourself rather closely with the remarks of Dr. Blake?

Dr. HYTCHE. Very much so. In fact, anything that I would say would be almost repetitious.

[The prepared statement of Dr. Hytche follows:]

Presented by:

Dr. William P. Hytche
Secretary, Board of Directors
National Association for Equal Opportunity
in Higher Education (NAFEO)

Mr. Chairman and members of the Subcommittee on Education, Arts and Humanities, my name is William Hytche. I am Chancellor of the University of Maryland, Eastern Shore. Today, I speak on behalf of the National Association for Equal Opportunity in Higher Education (NAFEO), on whose Board of Directors I serve as Secretary. NAFEO is the membership association of 111 historically and predominantly black colleges and universities. These include public and private, two-year and four-year institutions.

We thank you for the opportunity to comment on the Department of Education's proposed regulations for Title III of the Higher Education Act of 1980, particularly with respect to eligibility criteria.

First, however, permit me to describe the historically black colleges and universities, which typify, I believe, the kinds of institutions Congress intended to assist in the Strengthening, Special Needs and Challenge Grant Programs of Title III. The plurality of the American population and the commensurate plurality of the educational needs of this population led to the creation of the historically black colleges and universities, which at one time were the only source of higher education for Black Americans and which continue to serve a large number of black and non-black students with instructional programs to meet their specific needs.

Historically black colleges and universities have provided educational opportunities to people who otherwise would have been denied access in an environment characterized by opposition, legislated limitations, and a constant shortage of resources. The accomplishments of these institutions have far exceeded what should be expected as proportionate to the inputs.

The historically black colleges and universities have, by their existence, contributed to the strength of America's diversified higher educational system. The basic theme of democracy in higher education has given rise to the creation of many diverse kinds of institutions which provide vital educational opportunities to our pluralistic society. The President's Task Force on Education, in its report of August 1970, stated that:

> The diversity of American higher education is central to its strength. This diversity has grown from a tradition that encourages institutional initiative, creativity, self-determination, and autonomy. These characteristics are vital to the strength of our institutions and should explicitly be encouraged and strengthened by national policy.

Within this context of diversity, the historically black colleges and universities have made significant contributions to our nation. They have served as "opportunity colleges," providing education to thousands of able and deserving youths. If it were not for the black colleges and universities, which often provided education unavailable elsewhere, our nation would have suffered an incalculable loss. These institutions have also reached out beyond the boundaries of the campuses to provide much-needed services: adult education, agricultural extension programs, community service, and technical assistance to government agencies at all levels.

Despite the contributions made by these institutions to our nation, they appear to remain the somewhat forgotten sector of higher education when one examines the types and amounts of financial support received by them. Since historically black institutions do not benefit from the various nationwide fund-raising efforts or the major giving from individuals, foundations, and corporations, federal support assumes a larger and extremely important role in the overall range of support. The importance of federal support was apparent to the Congress when the Committee on Labor and Human Resources in its report on the Education Amendments of 1980 referred to Title III stating:

> The Congress finds that--
> (1) institutions of higher education with substantial percentages of students from low income families are contributing to carrying out the Federal policy of providing educational opportunities for all students who are qualified; and
> (2) institutions of higher education enrolling substantial percentages of students from low income families face unique burdens which prevent raising necessary financial resources to meet the ever increasing cost of educating such students.

Further the report stated that:

> Part B of this proposed title recognizes that institutions which enroll a large number of students from low-income families face a special burden. These institutions cannot raise their tuition levels to keep pace with inflation and increasing educational costs without driving many students away from the dreams of a higher education. Yet, these institutions provide a very real service to the nation, for they keep the doors of higher education open to the poor. These institutions do not need project grants; they need general operating assistance. Part B would provide that assistance.

Our major concern is that the eligibility criteria proposed by the Department of Education will contravene rather than fulfill the intent of Congress.

Our position is that an institution should have 45 percent of its enrollment (half-time and full-time students) receiving Pell Grants to be eligible to participate in the Strengthening Institutions Program. It should have 45 percent of its enrollment receiving Pell Grants or other campus-based student financial aid to qualify for participation in the Special Needs Program.

One lesson our nation has learned--a lesson, we believe, which is a cornerstone of President Reagan's philosophy and policies--is that to attempt too much for too many will result in doing too little for too few who are truly needy.

We are convinced that a 45 percent eligibility criterion would include in the eligibility pool not only most of the historically black colleges, which typically have 80 to 90 percent of their students on student financial aid, but also large numbers of other institutions that serve low income and disadvantaged students. On the other hand, the 45 percent criterion is not so low that it would result in enlarging the eligibility pool so greatly that it would threaten the adequacy of funding of those that are truly needy.

We also object to setting the base of eligibility as those students eligible for student assistance rather than those enrolled. Under the proposed regulations, a rich institution enrolling 10,000 students may have 1,000 students eligible for Pell Grants, of whom 350 actually receive grants; thus, this institution would be eligible for Title III and to compete with a small developing college of 1,000 students, 900 of whom are eligible for Pell grants, 800 or more of whom actually receive them. We repeat, the base should be the enrolled students. One would then compute the percentage of those who are eligible for, or actually receive, student assistance (Pell Grants for the Strengthening Institution's program and Pell Grants and other campus-based student aid for the Special Needs program).

We have confined our comments in this testimony only to our concerns about eligibility criteria. We have a number of other concerns. We, accordingly, have included, as an appendix to this testimony, NAFEO's reactions to the proposed Title III Regulations that we shall not read here, but that we have already submitted to the Department of Education.

I again thank you for this opportunity to express NAFEO's concerns about the eligibility criteria proposed in the new Title III regulations.

APPENDIX A

NAFEO'S REACTIONS TO THE NEW TITLE III REGULATIONS

INTRODUCTION

The National Association For Equal Opportunity in Higher Education (NAFEO), the membership organization of the 111 historically and predominantly black colleges, has grave concerns over the final regulations developed by the Department of Education to implement the 1980 Reauthorized Title III of Higher Education Act of 1965, As Amended (Pub. L. 96-374).

Our view is that regulations should implement or facilitate the implementation of the spirit of a law as enacted by Congress. In practice, the regulations developed by the Department of Education for Title III, in our opinion, embellish, amplify and extend the law, and thereby distort and amend the law beyond the intent of Congress. In so doing, these regulations place the Department of Education in the unenviable position of assuming some of the powers of Congress in actually legislating.

We feel that the regulations, in effect, abrogate implicit commitments made by the Senate to include the House version of the Title III legislation in the admittedly compromise Bill passed by both Houses and signed into law.

We believe that the House intended to provide some measure of protection for the historically black colleges to prevent them from being pushed out of the Title III program. We believe, however, that the Department of Education's overeagerness to accomplish its apparent objective of expanding eligibility and "graduating" institutions from the Title III program induced it to write regulations that restrict the participation of the historically black colleges to a greater extent than the House intended and to create rules that would prod the historically black colleges to go into long-run development grants with greater compulsion than the Congress intended and, in the end, force historically black colleges out of the Title III program. Indeed, the reaction of one NAFEO member to ED's taking a modicum of truth in the law and stretching it beyond the intent of the law was that the writers of the regulation were "atrociously assiduous." Our specific comments follow.

SPECIFIC COMMENTS

I. WE OBJECT TO SETTING THE BASE OF ELIGIBILITY AS THOSE STUDENTS ELIGIBLE FOR STUDENT ASSISTANCE RATHER THAN THOSE ENROLLED.

Under the proposed regulations, a rich institution enrolling 10,000 students may have 1,000 students eligible for Pell Grants, of whom 350 actually receive grants; thus, this institution would be eligible for Title III and to compete with a small developing college of 1,000 students, 900 of whom are eligible for Pell grants, 800 or more of whom actually receive them. We repeat, the base should be the enrolled students. One would then compute the percentage of those who are eligible for, or actually receive, student assistance (Pell Grants for the Strengthening Institution's program and Pell Grants and other campus-based student aid for the Special Needs progam).

II. THE PERCENTAGE OF ENROLLED STUDENTS ELIGIBLE FOR, OR ACTUALLY RECEIVING, STUDENT FINANCIAL ASSISTANCE SHOULD BE 45 RATHER THAN 35.

This proposed 35% expands eligibility beyond the intent of Congress. The percentage should be 45% to be consistent with the intent of Congress.

III. SUPPLEMENTING VERSUS SUPPLANTING OPERATIONAL FUNDS: TITLE III FUNDS COULD CONCEIVABLY SUPPLEMENT.

We concur that institutions receiving Title III funds should commit themselves to a maintenance of effort and that Title III funds should not supplant funds for the normal operation of existing programs. We do believe, however, that Title III funds may appropriately be used to supplement operational funds under certain circumstances. For example, the Challenge Grants could be used as an incentive for private or state funding to increase the flow of funds to the institution. These additional funds could properly be used to supplement operational funds.

IV. THE DEFINITION OF SELF-SUFFICIENCY SHOULD STRESS ACHIEVING VIABILITY AND SHOULD NOT EMPHASIZE SETTING A POINT IN TIME TO PUSH INSTITUTIONS OUT OF TITLE III.

We concur with the concept that self-sufficiency means viable and thriving. However, we object to the connotation that self-sufficiency should therefore be construed as being ineligible for future Title III funding.

We concur that the institutional aid programs should assist institutions in "solving problems that threaten their ability to survive and stabilizing their management and fiscal operations." We also concur that self-sufficient could be interpreted as the ability of an institution to survive without Title III funds. This does not mean, however, that the institution would be without need of Title III or other types of federal assistance or that it would not be enhanced or further strengthened by Title III funds. The Regulation should require only that institutions move toward self sufficiency.

V. LONG RANGE PLANS SHOULD BE CONSTRUED AS STRATEGIES TO BECOME VIABLE AND THRIVING.

We object to distorting the intent of Congress by placing inordinate emphasis on a long-range plan (which should be a strategy for instittuions to become thriving and viable) and by proposing regulations that in effect become a prescription to force institutions out of future consideration of Title III funds.

VI. THE SECRETARY'S DISCRETION TO WAIVE THE ACCREDITATION REQUIREMENT SHOULD NOT BE EXPANDED TOO BROADLY.

We believe that providing the Secretary with the discretion to waive the accreditation requirement for institutions that have traditionally served substantial numbers of black students is desirable. However, we object to further expanding this discretion to waive the requirement for institutions serving "substantial percentages of 'low-income' students."

VII. THE SECRETARY'S DISCRETION FOR EVALUATING AND SCORING PROPOSALS SHOULD BE BROADENED.

We believe that Congress intended that outside readers should be used to evaluate Title III proposals. However, we feel the regulations should make it clear that the Secretary, through his program staff, should have considerable discretion in supplementing readers' comments with theirs and that both sets of comments be considered in ranking proposals for funding. The law allows this.

VIII. DESIGNATION OF FUNDS FOR LONGER TERM TERMINAL GRANTS UNDER THE STRENGTHENING INSTITUTIONS PROGRAM SHOULD NOT BE USED TO FORCE INSTITUTIONS OUT OF TITLE III.

We recognize that the legislation requires setting aside at least 25% of the appropriations for the Strengthening Institution's program for longer term development grants. We feel, also, that this designation of 25% provides some guidance; however, there is the risk that the exact percentage of funds the Secretary will put into this part may be so great that it will become a coercive or compulsory device to force institutions to apply for programs that are not appropriate for their needs. The net effect would be to distort the intent of Congress.

IX. THE USE OF CHALLENGE GRANTS SHOULD BE ALLOWED TO ATTRACT FUNDS FOR ENDOWMENT.

We recognize that the Federal funds granted for Challenge Grants may not be used for endowment. However, we strongly feel that these grants themselves could be used to attract funds from private donors that in turn could be used for endowments. We believe that the regulations should make this use of funds clear.

X. MORE THAN ONE LONG-TERM GRANT SHOULD BE ALLOWED.

The Secretary limits post-secondary institutions to one long-term grant after which institutions would be excluded from further consideration for Title III funds. No where does the law state that the Congress intended that there should be non-renewable grants. The fact that the authorization for the current legislation expires in 1985 is no justification for forcing institutions out of the program. The renewal of the Title III legislation falls within the province of Congress, not of the Department of Education. The Department of Education should eliminate all references to the one-term, non-renewable grant in the Strengthening Institution's Program and in the Special Needs Program.

XI. INSTITUTIONS SHOULD BE PERMITTED TO APPLY FOR THE NEW INSTITUTIONAL AID PROGRAMS CONCURRENTLY WITH RECEIVING SDIP FUNDS.

A number of Title III institutions that had multiple-year grants under the old AIDP of Title III received supplemental grants before the term of the original grants expired. Accordingly, there is a precedent for receiving overlapping grants. In any event, much has been made of the fact that the new Institutional Aids Program represents a new day - an entirely new program. There is nothing in the legislation that prohibits institutions from applying for and receiving grants under this new program even though they continue to receive SDIP funds under the old program. That part of the proposed regulations that prohibits these institutions from applying should be deleted.

NAFEO'S RECOMMENDATIONS FOR SPECIFIC CHANGES IN THE PROPOSED WORDING OF THE TITLE III REGULATIONS

PART 624- INSTITUTIONAL AID PROGRAMS

A. 624.22 Long Range Plan

a. In its comprehensive long range development plan (referred to in these regulations as the long range plan) an institution shall describe its strategy for *achieving* (Italics ours) self-sufficiency by . . ."

NAFEO believes that this statement is inconsistent with the intent of Congress. (Public Law 96-374, Section .311 (a) The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to *increase* (Italics ours) their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation. The Long Range plan called for by the Secretary should be a strategic plan (rather than long range) since this requirement of a Federal long range plan may be in conflict with a state long range plan.

624.30 (1) the appropriate criterion in 624.32 for assessing the long range plan to achieve self-sufficiency; and change to read

624.30 "(1) the appropriate criterion in 624.32 for assessing the strategic plan or comprehensive development plan to increase self-sufficiency; and "

624.31 Selection criterion for planning grants

(i) Long range plan, change to read "(i) strategic plan or comprehensive development plan"

642.32 Long range plan to achieve self- sufficiency-- change to read:

624.32 "Strategic plan to increase self-sufficiency"

a. line 4, DELETE "long range plan provides for self sufficiency" INSERT "strategic plan or comprehensive plan to increase self-sufficiency"

(1) line 4 and 5, DELETE "long range" INSERT "strategic or comprehensive development"

(2) Line 4 and 5, DELETE "long range" INSERT "strategic or comprehensive development"

(3) line 6 and 7, DELETE "becoming self-sufficient" INSERT "increasing self-sufficiency"

b. Line 1 and 2, DELETE "long range, INSERT "strategic or comprehensive development"

c. Line 3, DELETE "long-range" INSERT "strategic or comprehensive development"

624.33 Selection Criterion for development grants.

a. Line 2, DELETE "long range" INSERT "strategic or comprehensive development"

(a2) Line 4, DELETE "achievement" INSERT "Increase"

PART 625 STRENGTHENING PROGRAM

Subpart A-General

625.1 Strengthening Program

(a) The Strengthening Institutions Program (referred to in these regulations as the Strengthening Program) assists eligible institutions of higher education to become self-sufficient and thereby strengthen their capacity to make a substantial contribution to the higher education resources of the nation.

NAFEO believes that this statement is inconsistent with the legislative intent of the Congress. (Part A Strengthening Institutions, "Program Purpose," Section 311 (a) line 4 and 5 reads "increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

625.2 Designation of Eligibility

625.2 (2) (1) At least 35 percent of its undergraduate students who were enrolled as at least half-time students and were eligible to apply for Pell grants in the base year received Pell Grants in that year; and. . .

NAFEO believes that 35 percent does not represent substantial, nor does the conference report refer to 35 percent but rather 45 percent. Further, the conference report refers to Pell Grant recipients and not eligibles, (See June 23rd, 1980 Congressional Record, p.s. 7890.) (Conference Report 96-733, p. 167)

625.3 Waiver of E & G requirement.

NAFEO believes that this requirement would work a hardship for most black colleges. We prefer to return to the use of the "composite scale" to determine eligibility. (Federal Register, 30, March 1979, 3rd column, par. 169.17, p. 19137)

PART 626 SPECIAL NEEDS PROGRAM

Subpart A-General

626.1 Special Needs Program

The Aid to Institutions with Special Needs Program (referred to in these regulations as the Special Needs Program) assists institutions of higher education to become self-sufficiency by strengthening their planning, management, and fiscal capabilities.

NAFEO believes that 626.1 is inconsistent with the legislative intent of the Congress. (Part B-Assistance to Institutions Enrolling Substantial Percentages of Disadvantaged Students, Statement of Policy, Section 321. (b). It is therefore the purpose of this part to provide continuing Federal financial assistance to permit institutions of higher education described in subsection (a) of this section to survive)

626.2 Designation of Eligibility

(2) (i) At least "35 percent" of its undergraduate students--change to read "45 percent"

(2) (ii) Change to read "45 percent" of its undergraduate students who were enrolled as at least half-time students who were recipcints of financial assistance under one or more of the Campus-based Programs"

626.31 Funding Availability

(2) For awards to institutions with special needs that have historically served substantial numbers of black students, not less than 50 percent of the amount received by those institutions under the Strengthening Developing Institutions Programs (SDIP) for fiscal 1979. This amount is approximately 27,000,000 dollars.

NAFEO believes this language is not clear and should read (2) line 2, "this amount is approximately 27,000,000 of the 60 million of Part B"

Subpart C How Does One Apply for a Grant? 627.20 General

(b) (2) (i) From new sources previously unavailable to the institution;

NAFEO believes that this is an excessively restrictive requirement and is not stated in the statute "(Section 332. (a) (i) provide evidence that funds are available to the applicant to match funds that the Secretary is requested to make available to the institution as a Challenge Grant;"

Senator **DENTON**. Now, let me clarify one thing before I get to questions later.

From your off-the-cuff remarks, Dr. Blake, you would be interested in knowing which new schools, and how many, might be included within whatever formula was worked out. Do you have any major problem with the ones that were already in the title III program?

I am thinking of what Dr. Hearn's interests would be. He can say that UAB has more minority students than Tuskegee does; of course, proportionately, UAB would not. I am going to have to mediate the attempt to make title III of the Higher Education Act conform to its original intent and yet not be revolutionarily different from what has been going on, so as not to disrupt or bankrupt some schools.

Do you have any difficulty with the participation as it has been in the past, realizing that the original emphasis on black schools has been somewhat transferred, in actuality, over time?

Dr. **BLAKE**. Well, that is a dangerous question because you do not want to pick fights with institutional colleagues.

Senator **DENTON**. No, no.

Dr. **BLAKE**. But I would have to say honestly that there are some schools that I have seen in the title III eligibility pool and some schools which I have seen receiving title III grants, and I have serious questions as to whether those kinds of schools should be supported by title III.

I think that it is not going to be possible, even using the approaches that we are talking about now under the current legislation, that all of the schools which are now eligible for title III will still be eligible in the new round of eligibility. I think there are going to be some casualties.

But if the kind of eligibility criteria that we have been struggling with are worked through in some of the ways that we are talking about, we think that the schools that might be dropped from title III would be schools that probably should not be in the program in the first place.

Senator **DENTON**. All right, thank you.

Would anyone care to add anything to that before we get to Mr. Badwound?

Dr. **HEARN**. Well, I am no more interested than my colleague in having——

Senator **DENTON**. I do not want to get a heated debate started, but sooner or later, if there becomes a major problem on this, we are going to have to face it.

Dr. **HEARN**. Speaking, of course, from an institution which has received title III funds and which is not a traditionally black institution, you simply have to decide whether you are going to support the programs and institutions that reasonably fall under the criteria that have described us for the last 3 years.

I would simply reiterate that the broadening of the applicant pool has never, to my knowledge, affected the priority and the preeminence given to the traditionally black institutions in the management of the title III program. I think that is right and proper; I have no quarrel with that.

But the fact is that we serve, in Alabama, a larger number of black, minority and low-income students than virtually any other institution in the State. Therefore, to deprive those students of resources because, out of necessity or choice, they choose to attend an institution like ours which is developing, if only in the sense that we are only a decade old, and which desperately needs the resources to devote to the specific purposes of title III, seems to me unfair to those students.

It is very likely that in trying to cut this thing too fine, we will end up eliminating from the eligibility pool a number of traditionally black institutions, as the Assistant Secretary testified.

Senator DENTON. Well, we are not going to make any final decisions now. I just want a feel for where we are, in general terms, in that area among the various representatives with us today.

Mr. Badwound, would you care to give your opening statement, sir?

Mr. BADWOUND. Mr. Chairman, distinguished members of the subcommittee, my name is Elgin Badwound. I am president of Oglala Sioux Community College, which is located on the Pine Ridge Reservation in South Dakota. I am also president of the American Indian Higher Education Consortium, which is an organization made up of tribally controlled community colleges throughout the Nation.

It is indeed an honor to come before your prestigious subcommittee to speak on behalf of my institution and the other tribally controlled colleges in the American Indian Higher Education Consortium.

I have some general remarks pertaining to tribal colleges. However, I do not pretend that I have all of the facts on each individual Indian community college in the Nation. So, therefore, I would like to suggest that given the 10 days that will be kept open for further testimony, I will communicate the information that I have picked up here to each individual college and encourage them to submit individual testimonies within this 10 days.

I would like to proceed, then, to offer some general remarks about Indian colleges, and also to present some recommendations that I think are still valid, regardless of which way the testimonies proceed on an individual basis.

The title III funding has enabled tribal colleges to strengthen their academic programs that are providing successful educational experiences for American Indian students. More specifically, it has enabled the colleges to better manage and account for Federal funds through improved fiscal management processes.

Tribal colleges have had a great deal of success in helping to develop human resources on the reservation and are contributing to the higher education resources of the Nation as a whole.

I think that it is important to point out some of the problems that are now facing the colleges in view of the recently proposed changes in title III. The most difficult problem at this time is that the proposed rules and regulations make it extremely difficult, if not impossible, for a majority of our Indian colleges to participate in the institutional aid program.

It is our understanding that the purpose of title III is to help institutions which are struggling for survival, to help bring them into the mainstream of academic life. Tribally controlled community colleges probably meet the true definition of struggling institutions far more than minority institutions and non-Indian institutions, and yet our institutions are the very institutions which are being excluded from participation in title III programs in view of the new recommended changes in the legislation.

At present, there are approximately 10 tribal colleges which do not meet the criteria, and therefore would not be eligible for participation. Again, these colleges rely quite a bit on these title III funds to help them to achieve some measure of self-sufficiency.

I would like to proceed to the recommendations that we have formulated to date regarding these changes, but I would also like to highlight a point. We feel that these institutions should be given appropriate recognition in view of the Federal Government's trust responsibility to provide education to Indian tribes throughout the Nation.

Based on the problems that we have had the opportunity to analyze to date, I would like to offer the following recommendations regarding the proposed changes.

One is that the consortium recommends that a technical amendment be offered to the Congress by the Department of Education which would amend section 342, "Waiver Authority and Reporting Requirement," by deleting Section 342(b)(1) and adding the following: that section 342(b) (2), (3), (4), and (5) be renumbered accordingly and that a new section 342(c) be inserted after 342(b), and it should read, "(c) the Secretary may waive the requirements set forth in sections 312(2)(b), 322(a)(2)(b), and 322(a)(2)(b)(i), in the case of an institution located on or near an Indian reservation or in a substantial population of Indians, if the Secretary of Education determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians."

No. 2, the consortium recommends that in determining the eligibility for tribablly controlled community colleges participating in parts A and B, the Secretary of Education, through regulation, as it is not precluded by law, grant tribally controlled community colleges a waiver from the provisions of 625.2 and 626.2 until such time that tribal colleges have had access to the funds necessary to establish an accurate data base by which to access their eligibility under this section.

Three, the consortium also recommends that the Secretary of Education submit a technical amendment to address sections 312(2)(A) (1), (2), (3)(i)(I) and section 322(a)(2)(A)(iii)(I) so as to clarify the fact that tribally controlled community colleges are not governed by State law. Such language would amend the above-stated sections by inserting after "within the State" and before "an educational program," the following language: "or chartered by a tribal government."

Finally, No. 4, the consortium also recommends that a special set-aside provision, possibly 5 percent, be established by regulation for tribal colleges. It is our understanding that a special set-aside for black institutions has been established by regulation. Why not establish a special set-aside for tribal colleges based on the Federal Government's trust responsibility to provide education for Indian tribes?

Thank you for taking the time to hear our concerns, and I will be pleased to answer any questions that you may have.

Senator **Denton**. Thank you, Mr. Badwound, and we will look forward to hearing from those institutions with which you will be communicating.

I will have some questions for the panel as a group, and then questions for individuals on the panel. If you care to answer any of these questions 'just raise your hand and I will go from my left to right, in order, at least for the first round.

Are E. & G. expenses alone an adequate reflection of institutional need? I think I know the answer to that.

Yes, Dr. Kennedy?

Dr. **Kennedy**. I think so, Senator Denton. I think that they are an adequate reflection of institutional need, but I think that perhaps it could be more adequate if you coupled it with the Consumer Price Index. But for the most part, they are adequate.

Senator **Denton**. Does anyone else want to comment on that?

Dr. **Blake**. Well, I think that there are some institutions which educate large numbers of low-income and minority youth who, because of the kinds of remedial, educational and supportive counseling services that they have to put in, sometimes will wind up having a higher E. & G. expenditure, because that is where those expenditures would be found.

I think it is going to be very important that in the waiver provisions, this kind of situation be looked at; that an institution may be under a great deal of pressure, in order to be effective in not only enrolling these students, but in getting them out and getting them graduated, to put in a lot of extraordinary educational expenses in order to make certain that that happens.

So, I am certain that there will be some small number of schools that would potentially be disqualified but who are heavily involved in the education of low-income or minority students, and that would be particularly true if these are relatively small institutions which are doing that, both in terms of 2-year and 4-year colleges.

Senator **Denton**. Anyone else?

[No response.]

Senator **Denton**. How much do costs are your member schools vary? Now, I will ask that of each of you since you respectively represent different organizations, starting with Dr. Kennedy. How would you answer that question?

Dr. **Kennedy**. Well, I think for the total cost per student at Bishop State, in comparison to nationwide 2-year colleges, we are about $500 less. I think the average nationwide would be $2,550, and at Bishop, on the average, a student pays per year $2,000—to be exact, $1,972—to attend Bishop State.

Senator **Denton**. How about you, Dr. Hearn?

Dr. **Hearn**. I do not know off the top of my head what our average per pupil expenditure is; I do know that it is low in comparison with national figures. Of course, institutional costs have to be determined as to whether you are going to include student costs as well as institutional costs, and in my testimony I make reference to the fact that certain factors in the urban environment tend to bring the cost down. That is the mission we serve, and therefore we try to operate the kind of institution where low-income students can have adequate access.

Senator **Denton**. Go ahead, Dr. Blake.

Dr. **Blake**. I will answer the question in terms of not the cost, but the charges to students, and then I will make a couple of other comments about that.

In the UNCF schools, our tuition averaged about $2,000 in the 1980–81 year, and the total charges for tuition, room and board, and so on, averaged about $3,800 for the United Negro College Fund schools. These costs are about 60 percent of the national average for private colleges.

This reflects the fact that the private black colleges are caught in a particularly difficult situation in the sense that we must keep our tuition costs low as compared to other private schools of our quality and our class, because the clientele that we serve cannot pay high tuition. Therefore, we are under a lot greater pressure to find nontuition sources of funding in order to cover the real cost of education.

I would like to make an editorial comment that private college people must always make in relationship to public colleges; that is that the cost in terms of the institutional cost of educating students is not different in the private and the public sectors.

If one looked at what the average total cost for educating a student, not what is charged to the student, there is little or no difference in the public and the private sectors. Our tuition charges do not cover the full cost of education, nor do the tuition charges in the public sector cover the total cost of education.

The difference is that we do not have public support, so we must charge our clientele more of the cost of their education than is charged in the public sector. And in the case of the historically black colleges, one of the reasons we are always such strong advocates of title III is because title III has been one of the most important sources of enabling us to keep our tuition relatively low, thereby continuing to carry out our historic mission.

Senator **Denton**. Dr. Blake has requested that he be enabled to leave to catch an airplane or an appointment.

Dr. **Blake**. No; I think I am all right.

Senator **Denton**. You are all right?

Dr. **Blake**. Yes.

Senator **Denton**. I had the information that you wanted to leave by 11:15 and I was going to go ahead and ask you the rest of your questions.

Dr. **Blake**. Go ahead, then. [Laughter.]

Senator **Denton**. Well, if that is not necessary——

Dr. **Blake**. Well, I do not think it is necessary; no, it is not necessary.

Senator **Denton**. How about you, Dr. Hytche? Did you have a requirement to leave?

Dr. **Hytche**. No, sir.

Senator **Denton**. OK.

Dr. **Hytche**. I would like to say, Mr. Chairman, that as you well know, I represent the National Association of Equal Opportunity in Higher Education, which comprises about 111 predominately black colleges, both private and public, so the cost varies quite a bit in this regard.

I do know, however, that in some instances and in some States, the costs at the private schools are basically the same as they are throughout the State. In other instances, it is much more, but I think the average is about the same as it is for the private colleges, as quoted by President Blake here a few minutes ago.

Senator **Denton**. Dr. Kennedy, you are pressed for time?

Dr. **Kennedy**. Yes.

Senator **Denton**. All right. Well, then, let me ask you your particular question now Of those junior and community colleges currently participating in title III, how many or what percentage have a majority of minority students?

Dr. **Kennedy**. I think we have about 5 or 6, Senator, in the State who would be participating, and of that number, I know for certain that two of that number would have a majority of minority students. And when I say majority, I am not just talking about a simple majority, but an overwhelming majority of something like 90 to 95 percent.

For the other three or four schools, I am not so certain; I do know that all of them have a visible presence of minority students. I would be very happy to provide you with the specific information as soon as possible when we leave.

Senator **Denton**. Dr. Kennedy, thank you. As you do have to make an appointment, you are excused.

Dr. **Kennedy**. Thank you so very kindly, Senator. Again, we look forward to seeing you when you come back home.

Senator **Denton**. You shall.

Dr. Hearn, the University of Alabama is one of the largest schools in the State. If you lost your title III grant, what sorts of activities would you be unable to pursue?

Dr. **Hearn**. The title III funds, Senator Denton, support programs which are specifically aimed at the low-income and minority students in the State of Alabama. Many students matriculate into higher education from educational backgrounds which do not permit them to succeed academically.

All of the programs that we support fall in the area of what we call academic support. Success in higher education really involves learning to speak two different kinds of language; one is English and the other is quantitative mathematics.

We operate with these funds an extensive laboratory and clinic system which supports our entire academic program; that is to say, in mathematics and in English a student can be remanded to that clinic by any instructor in any course, whether it be a course in mathematics or English or not.

These two programs have proved remarkably successful in enabling students who enter our institution with deficiencies to catch up. Unfortunately, in the State of Alabama, Senator Denton, the State specifies a number of years of mathematics that one must have to graduate from high school, but it does not specify a level of achievement.

Therefore, we receive students who wish to enter vocational opportunities for themselves where they have simply—it is not that these are remedial courses, but they have simply never had the courses in the first place. So, this math clinic, for example, tests every student to determine where their level of mathematical achievement is and then gets them to the level where they can enter the programs successfully. So, fundamentally, it is supporting our basic studies program.

Now, beyond that, there are some high employment areas where the opportunities are great for economic advancement and where they are historically underrepresented with minority populations, particularly engineering, computer science and accounting. We have targeted those programs and are providing special instructional and counseling opportunities for minority students in those areas.

I am happy to report to you that in those areas we have three times the national average of minority students enrolled. We believe that these programs are enormously successful and are achieving the objectives precisely which Congress envisioned.

I do not have to tell you what higher education funding in Alabama has been like for the last several years, and these funds are the difference between our ability to provide these services or not.

Senator DENTON. I have lived all over the United States for a longer period of time than I like to think about and I have noted trends in education which are not entirely encouraging. One of these is the matter you mentioned—remedial courses being conducted in college.

I have seen work from one of these courses at a college in Virginia, and it was incredible to me what was being written as composition by the freshman students. And this was a predominantly middle- to high-income college.

Frankly, I was appalled; I was shocked. I thought that such a level might exist at the sixth grade, not at the freshman level in college. And I wonder if the group of you feel that it would not be more appropriate to think of approaching the problem at a lower level of education than college. In other words, you inherit a problem which should have been addressed earlier in a child's education.

When I first returned to the United States after an absence of some 8 years, I was cheered by seeing planetaria, for example, in junior colleges, and even junior high schools, and would mention that in speeches as an evidence of higher education's ascendancy.

But after 4 or 5 more years of immersion into our society, I began to wonder about our progress, because we were not addressing the basics in the grade schools and the high schools to the degree that we should have been.

Just as a background discussion into this hearing, would you be in favor of placing emphasis more upon the basics in elementary schools and in high schools, considering what you are seeing as products of those levels in the colleges?

Dr. HEARN. Conversations, Senator Denton, are going on between our academic institution and surrounding public school systems on an ongoing basis so that we can look at this problem wholistically.

However, there is every evidence that if effective, demanding, rigorous instruction takes place, this is a learnable skill. While it would be obviously desirable that it be addressed at the elementary and secondary level, my own belief is that it needs to be addressed at every educational level.

I share your belief that there is, I think, in the country a move now to return in education to the mastery of fundamentals. I think, however, we would be doing a disservice to the educational establishment at all levels and would be misdescribing the problem if we did not point out the fact that the inability to write is probably not, even in the primary sense, representing the failure of the educational establishment.

The fact is that we have become a media-oriented society. Children who used to read a lot read little; children who used to read a little read none. The average 18-year-old is spending an enormous percentage of his waking time in front of television. And the fact that students cannot write and do not participate in the literary culture is an indication, it seems to me, of fundamental changes taking place throughout our culture as a whole, and do not, per se, reflect adversely on the performance of the schools.

Senator **Denton**. Well, I did not mean to condemn categorically or criticize categorically the schools. I do have a lingering question as to whether or not the so-called technological explosion may have caused a misguided reaction on the part of elementary and secondary schools in that they chose to address at a very early level the fuller spectrum of that explosion.

In other words, the three R's are essential tools without which one cannot master communications about other areas. It seems to me, if you introduce a proliferation of subjects early in children's educations, you are bound to dilute the degree of mastery of the fundamentals.

Would you care to comment on that, Dr. Blake?

Dr. **Blake**. Well, certainly, I think we would support more rigorous work and more effective work being done at the elementary and the secondary levels in the development of skills in writing and language, and also in mathematics.

Some of the problems that we see, though, must be said to still be a part of the unequal educational opportunities that still exist for many black youth in the country. Therefore, we know that until some of those things are really cleared up, which is going to take some time, we just simply have to, as a matter of continuing commitment, wrestle with the kinds of supportive services that we have to put in at the freshman and sophomore levels.

But I agree that these things do work. If you stick with it and put the rigor into the programs, you can get quite good performance and quite substantial, I think, competent performance out of students in these particular areas. I think that one of the major challenges facing us as educators is some kind of redefinition of what literacy really means in the kind of period that we are now living in and will be living in in the future.

I think we are going to have to find some way to make these new things, like television, video recorders, and the microcomputers, and the other kinds of things which require a lot less manual operations work for us as educators—we have got to find, I think, some way to shape the way in which young people use these things so that it supports more of the kind of traditional literacy and literate sorts of skills in reading and writing.

I think that is going to be a difficulty, but I think it is something that we cannot avoid because I think the technology is upon us, and I think many of the young children are now growing up with this technology in a way that was unknown to us.

Toys now even include microprocessors which enable them to do all sorts of things, and children spend hours manipulating these particular kinds of instruments. What the implications of that are going to be if we do not get control of it may be even worse than some of the things that we see now in terms of basic kinds of literacy.

So, I think that is a challenge educators are facing in terms of giving some leadership in the society in dealing with these changes. I agree with my colleague, they are rather pervasive and are not all to the good in terms of basic literacy and in terms of reading, writing, and arithmetic.

Senator DENTON. I want to make clear that I am neither challenging nor denigrating the degree of need for remedial English and other courses at the college level. I do not want to depreciate the emphasis, financial or otherwise, on such efforts.

I was just questioning whether or not we could concentrate more on fundamentals at the earlier levels of education. If you can get a child to study—I do not care whether he studies with television, without television, or with a book or with some other educational tool—those fundamentals, it seems to me, would be less of a problem at the college level. And we would have, in the national human resource that the Nation enjoys, perhaps improved results in student test scores. Curriculum expansion at early levels is a great, sweeping idea, but it has got to dilute the proportion of attention to fundamentals.

Yes, Dr. Hytche?

Dr. HYTCHE. I think, Mr. Chairman, that we are all concerned about the issue that you raised. At my institution, for example, we started working with this about 4 years ago, and I think I am the least concerned of any of my colleagues. I became even lesser concerned when I saw the amount of money that one of our most prestigious institutions in the country was spending—millions of dollars, which is more than my budget—for this kind of work.

But it really boiled down—when we started pushing it down to the high schools and the high schools pushed it down to the elementary schools, it finally came out, and I think we all kind of agreed, that they are just not getting it at home. Both parents are working now, and there are several other variables involved, but that is where we finally pushed it down to. And maybe we stopped there because we could not go any further.

Senator DENTON. Well, I agree that the family is certainly an important part of a child's education. I learned how to read before I got to school because of my mother. But I would think that in kindergarten and the first grade, a child could be taught how to read even without a great deal of emphasis on reading at home. I would hope that we could do that in the schools.

In other words, the approach of just throwing money at education—and I do not mean I am going to take any money from you—but throwing money at it for items that maybe are not that helpful, such as the planetaria I mentioned before, is not the answer.

All right. Dr. Blake and Dr. Hytche, could you estimate what percentage of historically black colleges rely on title III for economic survival? Would there be a number that would fail? I assume there would be.

Dr. **Blake**. Well, I think there are some schools that would be severely damaged if they no longer got title III support. As I think through that, I do not think that loss of title III funds would force any of the historically black colleges to close. I do not think that the level of funding that they receive, as a proportion of their overall budgets would result in any of our schools closing, if they did not receive title III funds.

I think some of them would be, for a period of maybe 3 to 5 years, in some severe financial difficulty that they would have to try to work their way through either in terms of reducing the size and scale of their operation, and so on, but I have not seen data that would indicate that title III alone might cause a failure.

But I would say, though it is not germane here, that I think if there were a combination of the loss of title III support and very deep cuts in the student financial aid programs, then I think some of our schools would fail. I think the combination of factors would put some of our schools under. I do not think they could sustain those twin kinds of blows and survive.

But, on title III alone, I think they could probably fight their way through with some considerable difficulty to some kind of more modest level of function.

Senator **Denton**. Dr. Hytche?

Dr. **Hytche**. I would just like to add a very brief statement to this because so many of our institutions depend on title III for areas other than what my colleague from Alabama said.

We are trying to develop, and a lot of our funds are spent in developing new programs and building a curriculum to be attractive not only to black students, but to white students as well. We have done a very good job, and I think that it was done principally through the efforts of title III.

There is another area, and I can cite this one because it has had such a great impact on all the predominately black schools. Just 2 years ago, the regulations precluded the institutions from using funds from title III to recruit. I think that this was the beginning of a decline in enrollment in many of the institutions. Many of us did not have recruitment funds. States did not provide funds for us to hire recruiters to go out.

Some of my very close colleagues have indicated to me that this has worked a real hardship on them. Now, that is an important part of our development. When we talk about developing institutions, we are developing in so many areas, but the one area that we place an awful lot of emphasis on is program development.

I can cite, for example, at my campus that had it not been for title III, we would not have such programs as environmental science and hotel/restaurant management—programs that are not only unique to the State, but unique to the area as well.

So, I think it would really have an effect on our predominately black institutions from this standpoint.

Senator **Denton**. I understand the difference, and thank you, Dr. Hytche.

Dr. Blake, in your testimony you mentioned that United Negro College Fund schools charge lower than average tuition. The administration has told us this morning that the first two amendments would benefit schools with lower than average tuition, and I gather you agree with that statement.

Dr. **Blake**. I did not understand the second part of that, Senator.

Senator **Denton**. The administration has told us this morning that the first two amendments would benefit schools with lower than average tuition, if we were to implement the changes they were talking about.

Did you follow that in Dr. Melady's testimony?

Dr. **Blake**. Yes. As I say——

Senator **Denton**. You are going to assess this?

Dr. **Blake**. Yes. I think that as I was listening to President Kennedy describe, and also my other colleague describe the problem that they are talking about, I think they would describe a problem whereby the size of the financial aid award follows the cost of tuition. As tuition goes down, the size of the award goes down, and therefore the high average would disqualify them from the program.

It would be our desire to support concepts that would focus the program on the kinds of institutions that I think have been described along the table here. If, in fact, the eligibility requirements are excluding large numbers of schools, such as schools which serve primarily Indians, for example, we would support changing the legislation in ways that would make certain that these kinds of institutions are included.

What we simply want to do is sit down and look at that and prepare our views based on that. We may very well find ourselves in strong supporters of the proposition that is being put forward.

Senator **Denton**. Well, I hope all of you will feel free, within the next 10 days, to get any more refined or corrected reflections of your opinion on that, based upon what you heard from the administration this morning.

Mr. Badwound, for my own information, could you tell me how many students are represented by the American Indian Higher Education Consortium, and are all of these students native Americans?

Mr. **Badwound**. OK. I think I can give you an estimate. Again, I would hate to try to give you a figure and indicate that it is an accurate figure because at this time, I do not have specific figures on each individual college.

I think that for fiscal year 1981, we came up with approximately 1,700 full-time Indian students for the 16 Indian colleges that are now members of the consortium. Now, with regard to non-Indians, I am glad you asked that question because I wanted to clarify that. That is a kind of a misconception at our college back home, and I think it is a point that is relevant and that needs to be made.

Our student population is made up of approximately 10 percent of students that are non-Indian or white, and I think a similar situation exists at all of the other institutions that are Indian colleges; they also serve white students, also. I am not sure what the percentage is in those institutions but I do know that we do serve non-Indian students, also.

Senator **Denton**. Where are those 16 colleges, just roughly? Are most of them up in your part of the country?

Mr. **Badwound**. Well, we are spread out across South Dakota, North Dakota, Montana, Nebraska, California, Arizona, and the State of Washington.

Senator **Denton**. Would you provide us with those numbers of full-time Indian students? You mentioned that you were just approximating. Could you, within the 10 days, supply the specific numbers?

Mr. **Badwound**. I would be more than happy to do that. Do you want just the Indian FTE or the total FTE?

Senator **Denton**. Both, if you can.

Mr. **Badwound**. OK.

Senator **Denton**. The administration said they could resolve the problem your schools have of establishing base year data for Pell grants by administrative regulation. Do you support the kind of action you heard them talking about this morning?

Mr. **Badwound**. I am not really sure about that. Again, that was the first time that I heard that and I am not really sure how accurate that statement is. What I did hear was that—if I am correct, you are referring to the administration's statement regarding the Pell grant awards that are handled through mother institutions; that the Pell grant award for that year could be taken from figures even though they might be channeled through another institution. Is that correct?

Senator **Denton**. Yes.

Mr. **Badwound**. Again, I think that I would hate to speak for all the colleges and the impact of this on them. However, I think one of the problems here that I know some of the colleges expressed was the percentage; they would not meet the 35-percent minimum percentage that was expressed in that particular section.

So, there are two issues. One is that a majority of our institutions did not receive Pell grants originally in 1978–79, so that would create a problem. Second, of course, was the percentage. Those are the two factors that cause the biggest problem.

Senator **Denton**. Well, it looks as if, gentlemen, we can tap you for your opinions and that we can work with the Department of Education to find out what they can do by regulation and what we would have to do by legislation.

If you have any further questions I want you to feel free to call the young man behind me, Brian Young, at 202–224–3491, and he will relay any questions you have to the proper authorities in DOE or within this subcommittee.

Thank you very much for your testimony this morning, and we hope you have a nice trip back.

[The prepared statement of Mr. Badwound and additional information requested follow:]

Presented by

Elgin Badwound, President
Oglala Sioux Community College
for

Tribally Controlled Community Colleges in the United States

Mr. Chairman, distinguished Members of the Subcommittee, my name is Elgin Badwound. I am President of Oglala Sioux Community College and also President of the American Indian Higher Education Consortium. It is indeed an honor to come before your prestgious Subcommittee to speak on behalf of the Oglala Sioux Community College and the other Tribally Controlled Community Colleges in the American Indian Higher Education Consortium.

I would like to take this opportunity to thank the Members of the Subcommittee and their staffs for taking the time to hear the specific concerns of tribal colleges pertaining to the proposed rules and regulations for Institutional Aid Programs as authorized under Title III of the Higher Education Act as amended.

Tribally controlled community colleges have participated in the Title III - Basic Institution Development Programs since 1972 on a very limited basis compared to other non-Indian institutions of Higher Education. Currently the American Indian Higher Education Consortium and other tribally controlled community colleges are receiving funding under the Title III Basic Institutional Development Program.

As a result of Title III funding, tribal colleges have been able to strengthen their academic programs and are now providing successful educational experiences for American Indian Students. The Title III--Basic Institutional Development Program, has also helped many of the tribal colleges to upgrade their capabilities to better manage and account for federal funds through improved fiscal management systems. Improvements have also been realized by the colleges in the area of managing student financial aid programs.

Tribal Colleges have had a great deal of success in helping to develop the human resources on their reservation and are contributing to the higher education resources of the nation.

They have given the Indian people on the reservation a sign of hope, a chance to improve their job skills, and a caring resource that they can turn to for training and education. The tribal colleges have provided a real source of achievement for the tribes and are serving as a valuable source of information and expertise for tribal governments as they deal with the crucial development issues and concerns effecting tribal people and the rest of the nation.

Tribal colleges receive funding from a variety of sources with a variety of eligible program recipients and a variety of rules and regulations governing who is eligible and how the funds can be spent.
The most difficult problem that our tribal colleges face in relation to P.L. 96-374 (Title III of the Higher Education Act of 1965, as amended) is that the Act and the proposed rules and regulations make it extremely difficult, if not impossible for tribally controlled community colleges to participate in the Institutional Aid Program authorized under Title III of the Act. It is our understanding that Title III is supposed to help those institutions which are struggling for survival and to help bring them into the "mainstream of academic life". Tribally controlled community colleges probably meet the true definition of "struggling institutions" far more than minority institutions and non-Indian institutions, and yet our institutions are the very institutions which are being excluded from participation in the Title III program under the new legislation.

The Act and the proposed rules and regulations have caused a series of problems for tribally controlled community colleges. More specifically, Section 626.2 (a)(4) reads, "The Secretary designates an institution of higher education or a branch campus as eligible to be considered for a grant under the Special Needs Program, if it has an enrollment of at least

100 F.T.E. students during the academic year in which it applies for designation." This proposed regulation requires an institution of higher education or a branch campus to have at least 100 F.T.E. students during the academic year in which it applies in order to be designated eligible to participate in the Special Needs Program.

This proposed rule could have a disasterous affect on tribally controlled community colleges. At present there are approximately ten tribal colleges which do not meet this criterion and therefore would not be eligible to participate. Tribal colleges are struggling for survival and have special needs to help them achieve some measure of self-sufficiency. Yet, the proposed regulations has the effect of excluding over half of the tribally controlled community colleges in existance today.

Currently tribally controlled community colleges do not have a base year by which to compute the eligibility requirements provided for in Section 625.2 and 626.2 because many tribal colleges have not received Title IV, H.E.A. grants to date. This is due to the fact that many tribal colleges have only recently become eligible to administer such grants on their own. The problem that the Act does not specify a base date to be used by the Secretary of Education, but only allows the Secretary to establish such date by regulation. There is no special provision to address this unique problem effecting eligibility requirements provided for in Sections 625.2 and 626.2.

I have had the opportunity to discuss the impact of these proposed rules and regulations with other tribal college officials and it is the concensus of the AIHEC member institution that certain changes must be made to allow tribal colleges to benefit from this legislation.

Based on our expressed concerns, I am hereby submitting the following recommendations for your review, consideration and action.

1) The American Indian Higher Education Consortium and its member institutions recommend that a technical amendment be offered to the Congress by the Department of Education, which would amend Section 342 "waiver authority and reporting requirement" by deleting section 342 (b)(1) and adding the following: That Section 342 (b)(2)(3)(4)(5) be renumbered accordingly and, that a new Section 342 (c) be inserted after 342 (b) "(c) the Secretary may waive the requirements set forth in Sections 312 (2)(b), 322 (a)(2) (b) and 322 (a)(2)(bi). In the case of an institution located on or near an Indian Reservation or in substantial population of Indians, if the Secretary of Education determines that the waiver will substnatially increase higher education opportunities approrpiate to the needs of American Indians."

2) The American Indian Higher Education Consortium recommends that in determining the eligibility for tribally controlled community colleges participating in Parts A & B, the Secretary of Education through regulation (as it is not precluded by law) grant tribally controlled community colleges a waiver from the provisions of 625.2 & 626.2 until such time that tribal colleges have had access to the funds necessary to establish an accurate data base by which to access their eligibility under this Section.

3) The American Indian Higher Education Consortium also recommends that the Secretary of Education submit a technical amendment to address Sections 312(2)(A)(1,2,3,i) (I) and Section 322 (a)(2)(A)(iii)(I) so as to clarify the fact that tribally controlled community colleges are not governed by State law. Such language would amend the above stated sections by inserting after "within the State" and before "an

educational program", the following language, "or chartered by a tribal government".

4) The American Indian Higher Education Consortium also recommends that a special set-aside provision (5%) be established by regulation for tribal colleges. It is our understanding that a special set aside for Black Institutions has been established by regulation. Why not establish a special set-a-side for tribal colleges based on the Federal Government Trust responsibility to provide education for Indian Tribes.

Thank you very much for talking the time to hear our concerns. My colleagues and I are pleased to be here. I will be pleased to answer any questions you might have.

These are third week figures

ENROLLMENT

Place Oglala Sioux Community College, Pine Ridge, South Dakota

Date February 14, 1980 - Spring Semester 1980

HEADCOUNT	MEN	WOMEN
FRESHMAN	137	229
SOPHMORE	32	62
UNCLASSIFIED	14	39

TOTAL ENROLLMENT 513

CREDIT HOURS		
FRESHMAN	996	1880
SOPHMORE	244	562
UNCLASSIFIED	64	250

TOTAL CREDITS 3296

FTE 274.6

Please complete this form as soon as possible after registration and return to:

Coordinator of Institutional
Black Hills State College
1200 University
Spearfish, South Dakota 57783

If you have any questions call 642-6291.

	MEN	WOMEN	TOTAL
1 - 5 Hours	63	67	
6 - 8 Hours	52	33	
9 - 11 Hours	27	79	
12 - or More	41	84	513
AGE GROUP			
15 - 19	2	16	
20 - 24	51	83	
25 - 29	50	82	
30 - 34	40	50	
35 - 39	17	38	
40 - 44	5	26	
45 - Over	18	35	513
RACE GROUP			
Indian	170	299	469
Non-Indian	13	31	44
		TOTAL:	513
Full time Indian	125		
Parttime Indian	344		469
Full time Non-Indian	10		
Parttime Non-Indian	34		44

These are third week figures

ENROLLMENT

Place Oglala Sioux Community College, Pine Ridge, South Dakota

Date September 18, 1979 - Fall Semester 1979

HEADCOUNT	MEN	WOMEN
FRESHMAN	103	248
SOPHMORE	30	60
UNCLASSIFIED	26	62

TOTAL ENROLLMENT 529

CREDIT HOURS		
FRESHMAN	817	2201
SOPHMORE	222	438
UNCLASSIFIED	108	362

TOTAL CREDITS 4148

FTE 345.6

Please complete this form as soon as possible after registration and return to:

Coordinator of Institutional
Black Hills State College
1200 University
Spearfish, South Dakota 57783

If you have any questions call 642-6291.

	MEN	WOMEN	TOTAL
1 - 5 Hours	66	93	
6 - 8 Hours	21	97	
9 - 11 Hours	31	57	
12 - or More	41	123	529
AGE GROUP			
15 - 19	10	46	
20 - 24	44	81	
25 - 29	49	83	
30 - 34	29	72	
35 - 39	13	29	
40 - 44	8	23	
45 - Over	6	36	529
RACE GROUP			
Indian	146	327	473
Non-Indian	13	43	56
		TOTAL:	529
Indian FTE	317		
Indian Parttime	156		473
Non-Indian FTE	29		
Non-Indian Parttime	27		56

TESTIMONY ON OVERSIGHT ON ELIGIBILITY FOR TITLE III OF THE HIGHER EDUCATION ACT

Prepared By

Myrna R. Miller
Dean of the College

Community College of Vermont
P.O. Box 81
Montpelier, Vermont 05602

Mr. Chairman and members of the Subcommittee, as Dean of the College and the executive officer of the Community College of Vermont, I am pleased to testify on the new regulations for Title III of the Higher Education Act. Because my institution is a new, innovative college primarily serving rural, low-income students, we are especially interested in the Title III program.

The Title III program has contributed greatly to the improvement of higher education in our country and we hope that it will continue to be responsive to the needs of developing institutions. It is both highly appropriate and an excellent use of resources for the federal government to participate in helping dedicated but struggling institutions find solutions to their problems.

At the present time, the Title III program is helping us to develop better resources and a training package for our part-time community faculty. Because of the grant, we are also able to design three new curricula in areas where we have high demand but in the past have lacked the resources to respond effectively.

After reviewing the proposed regulations for Title III, Higher Education Act, we have some serious concerns about the recent changes. The proposed revisions appear to differ greatly from their predecessors and, in some cases, may not accurately reflect the intent of Congress.

First, we are particularly concerned with the proposed regulations under designation of eligibility (Sec. 625.2). Under (a) (2) (ii) "the secretary determines that the average Pell Grant received by its students in the base year was greater than the Pell Grant received by students at comparable institutions in the year..." It is our understanding that two-year, public, community colleges would be compared as a group under this criterion. This, we believe, is inherently unfair and discriminatory because students at colleges with dormitories receive a higher Pell Grant award than students at colleges with no dorms. Many of our students live in trailors or old houses, they work during the day, have children and often have to drive at night over icy roads or snow-covered mountains to get to class. The sacrifices they make and the expenses they incur to gain the skills necessary to compete in a tight job market are significant. We are confident that it was not the intent of the legislation to discriminate against colleges that serve this type of student and are without dormitory facilities.

Secondly, our interpretation of the Congressional intent to create two separate programs is that they should serve two different needs. The House Bill (Part A) established two categories of "Strengthening Institutions grants;" a 1-3 year (renewable) and a 4-7 year (non-renewable). The Senate Bill (Part B) established a short-term, 1-5 year program, to assist institutions with special needs.

However, the proposed Part B regulations state that grants authorized for 1-5 years shall be called "long-term development grants." The definition of long-term development grants (the same as Part A) says they are non-renewable. The result of this would be to prohibit institutions from participating in Part A if they ever receive a Part B grant for other than planning purposes. They would, in effect, also be prohibited from receiving another Part B grant and would lose their eligibility to participate in the program. To us, this seems inconsistent with the intent of Congress.

Because of the magnitude of the proposed revisions and the term of their impact, it is imperative that these regulations are fair, equitable, and reflect the intent of Congress. I hope that this testimony might contribute toward that end.

AMENDMENTS TO TITLE III OF THE HIGHER EDUCATION ACT

Sections 312(2)(A)(i)(I) and 312 (2)(A)(i)(II) of the Higher Education Act of 1965 are amended by striking out ",the average amount of which is high in comparison with the average amount of all grants awarded under such subpart to students at such institutions" and sections 322(a)(2)(A)(i)(I) and 322(a)(2)(A)(i)(II) of the Higher Education Act of 1965 are amended by striking out ", the average amount of which assistance is high in comparison with the average amount of all assistance provided under such title to students at such institutions".

Explanation of Amendment

Under the Special Needs Program (Part B) the average amount of need-based assistance provided under (section 322(a)(2)(A)(i)(I) and (II)) Title IV of the Higher Education Act does not accurately identify schools that enroll large numbers of low-income students. Campus-based assistance (CWS, SEOG, NDSL) is awarded at the discretion of each college based on the unmet financial need of students. Unmet need is determined in general by subtracting from a student's cost, the expected family contribution and Pell Grant award. Obviously, the amount of tuition and fees charged by an institution will have a significant bearing on whether a student has unmet financial need. Moreover, some colleges choose to award larger grants, in an attempt to fill unmet needs completely for relatively few students. Other colleges choose to spread smaller awards among many students. Thus, the average award is not an accurate indicator of student need or income.

Under the Strengthening Program (Part A) (section 312(2)(A)(i)(I) and (II)) a similar problem exists. The amount of a Pell Grant, unlike campus-based aid, is determined by a formula that considers income and costs. The amount of the Pell Grant is not subject to adjustment by a college financial aid officer. However, the average award for low-income students at a college that charges little or no tuition will be lower than the average award at a college charging high tuition -- in spite of the fact that both colleges may enroll similar numbers of comparably low-income students. Colleges that enroll a large percentage of part-time students are similarly affected. Thus, many institutions that make extra efforts to serve low-income students by charging little or no tuition or by providing part-time study opportunities will not be eligible for Title III.

As a result many colleges who are the intended beneficaries of Title III -- including approximately 30 historically black colleges that were eligible under the previous Title III program -- will not be eligible.

TRI-COUNTY TECHNICAL COLLEGE

PENDLETON, SOUTH CAROLINA 29670

November 6, 1981

DR. DON C. GARRISON
PRESIDENT

The Honorable Robert T. Stafford, Chairman
Committee on Labor and Human Resources
Subcommittee on Education, Arts and Humanities
309-D Senate Courts
Washington, DC 20510

Dear Senator Stafford:

I am pleased to submit, on behalf of the South Carolina TEC Colleges, the enclosed statement to be entered into record concerning the proposed requirements as contained in the FEDERAL REGISTER, July 20, 1981, regarding Title III of the Higher Education Act.

We appreciate your support in assuring that the intent of Congress regarding Title II is met.

Sincerely,

Don C Garrison

Don C. Garrison
President

DCG:Mg

Enclosure

Statement Submitted as Testimony
to the
Committee on Labor and Human Resources,
Subcommittee on Education, Arts, and Humanities

Statement submitted by Dr. Don C. Garrison, President of Tri-County Technical College, Pendleton, South Carolina, on behalf of the Presidents' Council representing the sixteen two-year technical colleges of South Carolina.

Mr. Chairman and members of the Subcommittee, on behalf of the sixteen two-year technical colleges in the State of South Carolina, we wish to submit the following written statement to the members of the Education Subcommittee which is considering the impact of regulations and law affecting the Institutional Aid Programs under Title III of the Higher Education Act as amended by the Education Amendments of 1980. We wish to indicate [illegible] approval of any technical amendment offered by this Subcommittee which addresses the elimination of the phrase "...the average amount of which is high in comparison with the average amount of all grants awarded under such subpart to students at such institutions...." found in Sections 312 (2) (A) (i) (I) and 312 (2) (A) (i) (II) of the Higher Education Act of 1965. We wish to indicate firm approval of any technical amendment addressing the elimination of the phrase "...the average amount of which assistance is high in comparison with the average amount of all assistance provided under such title to students at such institutions...." found in Sections 322 (a) (2) (A) (i) (I) and 322 (a) (2) (A) (i) (II) of the Higher Education Act of 1965. The elimination of both these phrases would help to alleviate the unintentional penalization of two-year colleges in regards to Title III eligibility.

Since many rural two-year colleges that serve a significant number of minority and disadvantaged students charge low tuition which results in low average financial aid awards, they will fail on the above mentioned eligibility requirements unless those sections are eliminated.

We also wish to indicate support of any technical amendment that would allow for a reduction in the 35% recipient factor of those eligible to receive Pell Grants. We feel that this high percentage factor unfairly eliminates colleges that have always been eligible for Title III. Further, we would support any technical amendment that would address stipulation of 1979-80 as the "base year" for all eligibility calculations concerning Pell Grant recipients, since that base year most accurately reflects the Financial Aid Program in perspective.

We sincerely appreciate the fact that the U. S. Senate has provided this forum to express our concerns in the area of Title III eligibility. We strongly urge the Senate Subcommittee on Education, Arts and Humanities to propose technical amendments addressing our concerns.

College of The Albemarle
Post Office Box 2327 - Highway 17 North
ELIZABETH CITY, NORTH CAROLINA 27909
Telephone: (919) 335-0821

October 26, 1981

The Honorable Robert P. Stafford
5219 Dirksen Senate Office Building
Washington, D. C. 20202

Dear Senator Stafford:

I understand that the subcommittee on Education Arts and Humanities will hear testimony on Thursday of this week on proposed regulations for the Institutional Aid program of the Higher Education Act.

As Chairman of the Federal Relations Committee of the North Carolina Community College Presidents Association, I express to you concern over the effect of the proposed regulations on community colleges in North Carolina. Although there are several areas in the regulations on which I have already commented through the procedure used by the Department of Education, the central concern I bring to your attention is the proposed method of determining eligibility.

North Carolina's 58-member community and technical college system traditionally has had a large percentage (between 35% and 40%) of its members qualify as "developing institutions". Informal calculations using the proposed criteria would render few and possibly none of these institutions eligible. Because the effect of the proposed criteria would seem in conflict with the congressional intent of the legislation, I recommend a return to the point-scale system of determining eligibility which has been successfully used in previous years. This system has the advantage of being capable of administration and it is reflective of legislative intent to identify institutions which need to pursue self sufficiency.

The second comment I submit to your attention is necessitated by the need for institutional information upon which eligibility determination is based to be as current as possible. I recommend that the base year from which data is drawn to determine eligibility be 1979-80, or preferably 1980-81.

Your careful consideration of these recommendations is appreciated.

Sincerely,

Parker Chesson

J. Parker Chesson, Jr., Chairman
Federal Relations Committee of the
N. C. Community College Presidents
Association

NAVAJO COMMUNITY COLLEGE
Tsaile, Navajo Nation (Arizona) 86556

OFFICE OF THE PRESIDENT

November 11, 1981

SubCommittee on Education, Arts and Humanities
4230 Dirksen Building
Washington, D.C. 20510

Chairman and Members of the SubCommittee on Education, Arts and the Humanities:

My name is Dean C. Jackson, President of the Navajo Community College, Tsaile, Arizona. I am writing to you on behalf of a Tribally Controlled Community College and also, as a Member of the American Indian Higher Education Consortium in regard to the Department of Education's proposed rules and regulations for Title III of the Higher Education Act of 1980, particularly in respect to eligibility criteria. The recent SubCommittee Hearings conducted on October 29, 1981 were an encouraging sign that Congress recognizes major inadequacies in the proposed legislation. Also, I commend the SubCommittee on its choice of panelists that presented oral testimony, one of which was a representative of the Indian Education Community.

Before I comment on the proposed rules and regulations, permit me to describe the Tribally Controlled Community Colleges, which represent, I believe, those kinds of institutions that Congress intended to assist, through that "vehicle" we know as the Strengthening, Special Needs, and Challenge Grant Programs of Title III. Historically, we Indian people have had to rely on what the Federal Government has been willing to provide for our education. Ultimately, this has meant grossly inadequate lower level and secondary programs, and virtually little opportunity for college level work. Consequently, when we speak in terms of education in terms of results, we are confronted with disproportionate low numbers of Indian college graduates and, proportionately high levels of Indian college dropouts.

To combat this situation, at least as far as higher education is concerned, many Indian Nations, within the past decade, have taken the initiative to develop their own higher educationl institutions in the form of community colleges. Today, in the American Indian Higher Education Consortium alone, there are seventeen such institutions that offer higher educational opportunities to its Indian population based upon those needs identified by the community which it serves. Each institution, while recognizing

Chairman and Members of the SubCommittee on Education, Arts and the Humanities

the academic criteria as established by national standards, is also deeply involved in developing its individual programs with a regard to the traditions and customs of its people. To be able to pattern the working structure of an institution to meet requirements of the dominant education community and, at the same time recognizing and integrating those qualities of tradition and custom, is a challenging task. In large, this task has been taken by the Indian community and with the positive assistance that we feel Title III can provide, attainment can become reality.

Regarding the proposed rules and regulations, we feel that as far as Tribally Controlled Community Colleges are concerned, it is extremely difficult, if not impossible, to qualify as an eligible institution. Specific concerns and recommendations are:

1. Several criteria for eligibility are geared to measure institutional student needs based upon Pell Grant disbursements made during a set base year. Because most of the Tribally Controlled Community Colleges are working towards accreditation and do not receive direct Pell Grant assistance, the information is not available.

   RECOMMENDATION: Permit Tribally Controlled Community Colleges a waiver.

2. That an eligible institution be "legally authorized by the state in which it is located" is, basically. non-applicable to Tribally Controlled Community Colleges. In most cases the colleges are situated on federal reservations and as such are not subject to state authority.

   RECOMMENDATION: Waive this requirement for Tribally Controlled Community Colleges.

3. The proposed set-aside for predominantly black institutions is, I am sure, deserved and well founded. However, the Tribally Controlled Community Colleges, to be sure, are striving to attain similar goals and, are very likely in my opinion, at that point in their existence where survival is a common word. To recognize the special needs of just one group of potential recipients and not of others does not appear to be an equitable policy.

   RECOMMENDATION: Establish a set-aside for Tribally Controlled Co-munity Colleges.

Chairman and Members of the SubCommittee on Education, Arts and the Humanities

These comments are presented to your SubCommittee with the most sincere respect and, I would hope that any decisions made with regard to the proposed rules and regulations before you, will reflect favorably upon the concerns of the Tribally Controlled Community Colleges and the Indian people they serve.

Sincerely yours,

Dean C. Jackson

Dean C. Jackson, President
Navajo Community College

BLACKFEET COMMUNITY COLLEGE
BOX 819, BROWNING, MONTANA 59417 TEL. 406/338-7325
338-5411
338-5421
338-5441
338-7465

PRESIDENT
Carol C. Juneau

BOARD OF REGENTS
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Clifford Kicking Woman, Vice-Chairman
Carol D. Kipp, Secretary
Harvey Mad Man, Sr.
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Mae Crawford
Earl Old Person
George Kicking Woman

November 3, 1981

Senator Robert T. Stafford
Chairman, of the Senate Subcommittee on Education
 of Full Committee on Labor and Human Resources
United States Senate
Dirkson Senate Office Building
Room 5219
Washington, D.C.

Dear Senator Stafford:

We understand that hearings were held on the Title III Higher Education Act of 1965 Proposed Rules and Regulations on October 29, 1981. The Blackfeet Community College would like to submit the attached letters for the record (letters that was sent to Title III on the Proposed Rules and Regulations) and the following comments for the record:

1. Request a set-aside for Tribal Colleges of the amount of appropriations made for this program - 5%.

   This would insure that the Tribally Controlled Community Colleges, who are eligible, would have an amount available to them for the grant application process.

2. That an analysis be done by Title III with input of Tribal Colleges to determine the impact of the proposed rules and regulations on Eligibility for Title III and that a summary of this analysis be submitted to your Committee for review.

   This analysis would determine whether Tribal Colleges and Small Colleges who may by applying for funding under this program would be eligible or if they would be eliminated due to eligibility criteria.

   With this type of statistical base of data, your Committee would have further information necessary to determine whether the proposed rules and regulations are unfair and discriminatory towards Tribal Colleges and other small colleges.

Sincerely,

Carol C. Juneau

Carol C. Juneau, President

Attachments

BLACKFEET COMMUNITY COLLEGE
BOX 819, BROWNING, MONTANA 59417 TEL. 406/338-7325
338-5411
338-5421
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September 18, 1981

PRESIDENT
Carol G. Juneau
BOARD OF REGENTS
Percy DeWolfe, Chairman
Clifford Kicking Woman, Vice-Chairman
Carol D. Kipp, Secretary
Harvey Mad Man, Sr.
Don Pepion
Mae Crawford
Earl Old Person
George Kicking Woman

Ms. Alfred M. Liebermann, Chief
Policy and Planning Section
Institutional Aid Programs
U. S. Department of Education
L'Efant Plaza, Post Offi0e Box 23868
Washington, D. C. 20024

Dear Ms. Liebermann:

Following are comments regarding the Proposed Rules and Regulations for the Title III, Higher Education Act of 1965 Institutional Aid Program as requested in the Federal Register of July 20, 1981.

We are extremely concerned on many of the various sections of the Proposed Rules and Regulations as they eliminate eligibility not only for the Blackfeet Community College, but for other Tribal Colleges and small colleges throughout the United States.

Also, the proposed rules and regulations do not allow for any Consortium funding which would eliminate the American Indian Higher Education Consortium and other consortium arrangements. The American Indian Higher Education Consortium is vitally important to the Tribal Colleges and this type of funding should be continued under the Title III Program.

Following are some specific concerns that pertain to the eligibility section of the proposed rules and regulations:

1. The requirment for a long-range comprehensive plan for eligibility should be waived for colleges who do not have one, or a time line should be provided for the accomplishment of this. Also, this could be one of the activities that could be accomplished through financial assistance under this program.

2. The eligibility criteria for E&G Expenditures per FTE undergraduate student that must be less than the average E&G Expenditure per FTE undergraduate student in that year at institutions that offer similar instruction should be revised. The costs of small institutions who do not have college housing available or student food services as do many larger institutions do create a larger E&G cost per FTE undergraduate. Therefore, with this requirement, many small colleges who do not have the services as larger institutions will be eliminated from this program.

3. The eligibility for Pell Grants and other campus based programs for financial aid as outline in the proposed rules and regulations should be revised. At the present time, the Base year has not been established by the Secretary; therefore, it is not realistic to prepare the statisical data to see if the college is eligible under this provision.

   If Title III uses a base year in which the applicant college was not eligible to receive Pell Grants or other campus based programs, then that insitution will be eliminated from eligibility.

   This eligibility criteria must take into consideration all situations facing small developing colleges which is what this program is designed for, as I understand. It is not designed for the larger Institutions of Higher Education who have the financial resources and capabilities to assist in their own development.

We believe these Proposed Rules and Regulations should be carefully scrutinized by your Department and request that you invite representatives of the Tribal Colleges to have input to you on these through a meeting with your office, prior to final publication.

Sincerely,

Carol C. Juneau

Carol C. Juneau, President

American Indian Higher Education Consortium
1582 South Parker Road - Suite 210 Denver, Colorado 80231
(303) 750-1883

STAFF
LeRoy V. Clifford
Executive Director

[illegible] Jr.
Paula Conterly Hanrahan
C. Douglas Roubideaux
Lloyd Hernandez
David A. Lee
Mary Rose Moran
Carol S. Nichols

MEMBER INSTITUTIONS
Blackfeet Community College
Cheyenne River Community College
Dull Knife Memorial College
Fort Berthold College Center
Hehaka Sapa College
Little Big Horn College
Little Hoop Community College
Lummi Indian School of Aquaculture
Navajo Community College
Nebraska Indian Community College
Oglala Sioux Community College
Salish Kootenai Community College
Sinte Gleska College
Sisseton Wahpeton College Center
Standing Rock Community College
Turtle Mountain Community College
United Tribes Educational Technical Center

September 18, 1981

Ms. Alfreda M. Liebermann
Chief, Policy and Planning Section
Institutional Aid Programs
U.S. Department of Education
L'Enfant Plaza
P.O. Box 23868
Washington D.C. 20024

Dear Ms. Liebermann:

On behalf of the American Indian Higher Education consortium, I am pleased to submit these comments pertaining to the Notice of Proposed Rulemaking for the Institutional Aid Programs authorized under Title III of the Higher Education Act of 1965, as amended.

I have had the opportunity to discuss the impact of these proposed rules and regulations with tribal college officials and feel strongly that certain changes must be made to allow tribal colleges to benefit from the legislation.

Please find our comments and recommended action for change attached. It is our hope that the Department will consider the problems raised and that they will be incorporated before the Department's final regulations are promulgated. In addition, we would urge that the Department hold a public hearing to hear the comments of the higher education community.

We look forward to your assistance in this effort.

Sincerely,

LeRoy V. Clifford

LeRoy V. Clifford
Executive Director
American Indian Higher
Education Consortium

cc - William Blakey
Jo Jo Hunt
Alan Lovesee

American Indian Higher Education Consortium

THE HIGHER EDUCATION ACT OF 1965

AS AMENDED (P.L. 96-374)

The following are public comments on the proposed rules and regulations governing the Institutional Aid Programs authorized under Title III of the Higher Education Act of 1965, as amended by P.L. 96-374.

34 CFR Part 626, Section 626.2, F.R. pp. 37480

Proposed Regulation Language

1. Section 626.2(a)(4) reads, " The Secretary designates an institution of higher education or a branch campus as eligible to be considered for a grant under the Special Needs Program if it has an enrollment of at least 100 FTE students during the academic year in which it applies for designation."

Comment

The proposed regulation requires an institution of higher education or a branch campus to have at least 100 FTE students during the academic year in which it applies in order to be designated eligible to participate in the Special Needs Program. This regulation could have a disastrous effect on Indian community colleges.

At present there are several tribal colleges which do not meet this criterion and therefore would not be eligible to participate under the provisions to this program. Tribally controlled community colleges are unique in that they are located on or near Indian reservations and serve Indians near their homes, their families, and their places of employment. These institutions are small and in the past, have lacked the financial resources to recruit students in sufficient numbers to generate FTE counts in excess of 100 FTE students. As such many of them would not meet this particular requirement for eligibility. I expect there are other institutions which have FTE counts less than 100 FTE students and as such they too, would be affected by these regulations.

American Indian Higher Education Consortium

Recommendation

We recommend that a technical amendment be offered to the Congress by the Department which would:

Amend Section 342 "Waiver Authority and Reporting Requirement" by deleting Section 342 (b)(1) and adding the following:
That Section 342 (b)(2)(3)(4)(5) be renumber accordingly and,
that a new Section 342(c) be inserted after 342(b)
"(c) The Secretary may waive the requirements set forth in sections 312(2)(v), 322(a)(2)(v) and 322 (a)(2)(vi) in the case of an institution located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians."

2. 625.2 and 626.2

Comments

Currently Tribally Controlled Community Colleges do not have a base year by which to compute the eligibility requirements provided for in Section's 625.2 and 626.2 because many Tribally Controlled Community College's have not received Title IV, HEA grants to date. This is due to the fact that many tribally controlled community college's have only recently become eligible to administer such grants.

The law does not specify a base date to be used by the Secretary, but only allows the Secretary to establish such date by regulation.

Recommendation

It is our recommendation that in determining the eligibility for tribally controlled community college's participation in Part's A & B, the Secretary through regulation (as it is not precluded by law) grant tribally controlled community college's a waiver from the provisions of 625.2 and 626.2 until such time that tribally controlled community colleges have had access to the funds necessary to establish an accurate data base by which to access their eligibility under these sections.

3. Additional technical amendment to be put forth by the Department to address Sections 312(2)(A)(iii)(I) and Section 322(a)(2)(A)(iii)(I) so as to clafify the fact that tribally controlled community colleges are not governed by State law. Such language would amend the above stated sections by inserting after "within the State" and before "an educational program," the following "(or chartered by a Tribal Government(s)"

Community College of Vermont
Central Administrative Offices
P.O. Box 81
Montpelier, Vermont 05602
(802) 828-2401

September 16, 1981

Ms. Alfreda M. Liebermann, Chief
Policy and Planning Section
Institutional Aid Programs
U. S. Department of Education
L'Enfant Plaza
P. O. Box 2368
Washington, DC 20024

Dear Ms. Liebermann:

After reviewing the proposed regulations for Title III, Higher Education Act, and an analysis by the ACCTion Consortium, we would like to register our concern with the proposed regulations and the manner of their adoption.

The proposed revisions differ greatly from their predecessors and, in some cases, may not reflect the intent of the Congress. Specifically, we are particularly concerned with the proposed regulations concerning designation of eligibility (Sec. 625.2). Under (a)(2)(ii) "the secretary determines that the average Pell Grant received by its students in the base year was greater than the average Pell Grant received by students at comparable institutions in that year..." Comparing two year public community colleges as a group under this criterion is inherently unfair because students at colleges with dorms have a much higher Pell Grant award than students at colleges with no dorms. We are confident that it was not the intent of the legislation to discriminate against colleges without dormitory facilities.

We would also like to suggest adoption of a point system for determining eligibility for the Strengthening Developing Institutions program and support the model presented by the ACCTion Consortium (see Attachment A).

Secondly, our interpretation of the Congressional intent to create two separate programs is that they should serve two different needs. The House Bill (Part A) established two categories of "strengthening institutions grants;" a 1-3 year (renewable) and a 4-7 year (non-renewable). The Senate Bill (Part B) established a short-term, 1-5 year program, to assist institutions with special needs

However, the proposed Part B regulations state that grants authorized for 1-5 years shall be called "long-term development grants." The definition of long-term development grants (the same as Part A) says they are non-renewable.

The result would be to prohibit institutions from participating in Part A if they ever receive a Part B grant other than for planning purposes. They would be prohibited from ever receiving another Part B grant as well, and would, in effect, be removed from the program. This seems inconsistant with the intent of Congress.

Because of the magnitude of these proposed revisions and the term of their impact (considering the proposed 3 to 7 year funding cycle), it is imperative that these regulations meet a full and public review prior to implementation.

The Title III program has contributed greatly to the development of higher education in our country and we hope that it will continue to be responsive to the needs of developing institutions. In their present form, the proposed revisions may inhibit this development as envisioned in the legislation.

Thank you for consideration of our concerns and comments.

Cordially,

Myrna R. Miller
Dean of the College

MRM:krb
Encl: (1)

cc: ✓Senator Robert Stafford
Senator Patrick Leahy
Congressman James Jeffords

Attachment A

Suggested Rewrite for Sec. 625.2 Designation of eligibility

(a) The Secretary designates an institution of higher education or a branch campus as eligible to be considered for a grant under the Strengthening Program if---

(1) It satisfies the basic institutional eligibility requirements in 34 CFR 624.2;

(2)(i) It has an enrollment which includes a substantial percentage of students receiving Pell Grants in the base year. The Secretary assigns points to the institution on a scale of 0-100 points on the basis of the number of Pell Grant recipents per FTE undergraduate student. The points awarded are based on the institutions percentile ranking when compared to all other similar institutions.

(ii) The average Pell Grant received by its students in the base year was high in comparison with the average Pell Grant received by students at comparable institutions in that year. The Secretary assigns points to the institution on a scale of 0-100 points. The points awarded are based on the institutions percentile ranking when compared to all other similar instutions.

(3) It has an average educational and general(E&G) expenditure per full-time equivalent(FTE) undergraduate student in the base year that was low when compared to the average at institutions that offer similar instruction. The Secretary assigns 0-100 points to the institution reflecting the instutition's position on the percentile scale when compared to the same averages of all other institutions that offer similar instruction.

(b) In determining institutional eligibility, the Secretary gives the factors described in paragraphs (a)(2)(i) and (ii) of this section double the weight of the factor described in paragraph (a)(3) of this section. The following chart illustrates how the Secretary assigns points for the above factors:

Percentile Rank	(a)(3)	(a)(2)(i)	(a)(2)(ii)
99.5	0	100	100
99	1	98	98
98	2	96	96
--	--	--	--
--	-	--	--
2	98	4	4
1	99	2	2
0	100	0	0

(c) A total of 150 points--the combined total of all three factors--

STANDING ROCK COMMUNITY COLLEGE
FORT YATES, NORTH DAKOTA 58538

Standing Rock Community College
Fort Yates, ND 58538
Phone: 854-3861

Bismarck Junior College
Schafer Heights
Bismarck, ND 58501
Phone: 255-4707

October 27, 1981

The Honorable Robert T. Stafford
Chairman, Sub-Committee of
Education, Arts and Humanities
United States Senate
309D Senate Courts
Washington, D.C. 20510

Dear Senator Stafford:

Enclosed are the comments from the North Dakota Indian Higher Education Task Force concerning the proposed Title III Rules and Regulations. We would appreciate our comments being made a part of the record of your Sub-Committee's hearing on Title III Rules and Regulations of October 29, 1981.

The Task Force would appreciate the Sub-Committee's consideration of our concerns. The Tribally Controlled Community Colleges only ask for the right to compete and not be restricted because of language which hasn't taken our situations as developing institutions into consideration.

Thank you for your time and concern of this matter.

Very truly yours,

Wayne J. Stein
Wayne J. Stein
SRCC President

dmg
Enclosure

The North Dakota Indian Higher Education Task Force on Title III Rulemaking is in substantial agreement with proposed regulations published in the Federal Register on July 20, 1981. There are, however, certain points that systematically jeopardize the eligibility of the four Tribally-Controlled Community Colleges in the State.

The first of these points is the requirement of the Special Needs Program that colleges, to be eligible, must have enrollments of at least 100 FTE students in the year in which they apply. The North Dakota Tribally-Controlled Community Colleges strongly urge that this requirement be deleted. The unique circumstances in which Tribally-Controlled Community College find themselves -- small numbers of people to draw from and rural isolation -- dictate that, in at least two North Dakota instances, colleges which fit the Special Needs criteria in every other way will be summarily and systematically excluded from participation in the Special Needs Program. This situation appears to contradict the published statement concerning the Regulatory Flexibility Act in that some small institutions are precluded from competing for funding. Small Indian Community Colleges serve a grossly underserved segment of the population and urgently need Title III funds to develop on an equal footing with other institutions.

The second point concerns the requirement in both the Strengthening and the Special Needs Programs that at least 35% of eligible students in the base year receive Pell grants and that the average grant be greater than the average grant at comparable institutions. In North Dakota, two of the four Tribally Controlled Community Colleges handle their own Pell funds. Turtle Mountain Community College has managed this funding since the Fall of 1979. Standing Rock Community College assumed responsibility for its own Pell grants in the Fall of 1980. Fort Berthold Community College and Little Hoop Community College currently use other facilities for their Pell grants. Here again exclusion is potential. The two colleges which do not handle their own funds would have difficulty competing. The two which do may be able to compete provided the "base year" selected happens to fall into the appropriate time frame.

Point three concerns the requirement of the Special Needs Program that 35% of eligible students in the base year receive other Campus-Based Aid and that the average amount of this aid be greater than the average amount of such aid received by students at comparable institutions. Two of the North Dakota colleges do not handle their own Campus-Based Aid and are thus excluded. The two which do handle their own aid are jeopardized on two counts. The first is the time element. Turtle Mountain Community College has administered SEOG & College Work Study since the Fall of 1979. Standing Rock Community College begins administering its own funds in the Fall of 1981. Thus, depending on the base year selected, all four colleges controlled by Indian tribes could be prevented from competing. The second count is that the amount of funding received for SEOG & CWSP is so small as to preclude serving 35% of the eligible students. Nearly all students are eligible for aid because of the poverty conditions that prevail on Indian reservations. An example of this problem is that Standing Rock Community College in the Fall of 1981 will receive $5,000 in SEOG AND $9,583 in College Work Study funds. Fall enrollment , while not complete, is expected to be approximately 150 FTE students. Since nearly all students are eligible for aid, approximately 50 would have to be funded to meet the eligibility criteria. Clearly, if this were done, the grant amounts would be miniscule and would certianly fall below the average of grants made at comparable institutions. Turtle Mountain Community College receives approximately the same amount of aid while Fort Bethold and Little Hoop Community Colleges receive no funds. Again, this criterion for eligibility has the potential to exclude all four Tribally-Controlled Colleges in North Dakota.

The Task Force feels that these two criteria related to Pell grants and Campus-Based Aid, while valid, do not constitute sufficient grounds for being rejected from competition. The spirit of Title III is to assist institutions into the mainstream. The colleges all meet other criteria as stated in the Amendments to the Higher Education Act. Section 322 of Part B of the Amendment gives eleven points which the Secretary may consider as indicators of Special Needs. The Tribally-Controlled Community Colleges qualify under many of these items: low library expenditures, low faculty salaries, no endowments, limited library resources, low percentage of faculty with doctoral degrees, poor physical facilities, no foundation, corporate or alumni support, no sponsored research and limited capacity for long range planning.

While other small, relatively young colleges experience similar difficulties, these comments apply specifically to Tribally-Controlled Community Colleges. The Task Force requests that consideration be given to provision for a waiver of the need based aid requirements for Tribally-Controlled Community Colleges which can establish that they have certain of the other special needs given in Section 322, Part B.

The deletion of the 100 FTE criterion and provision for a waiver of the needs-based aid requirements are the most urgent problems that Tribally Controlled Community Colleges face since they affect eligibility to compete. These are, however, there is one final point that is of interest to Tribally Controlled institutions. In the 1965 law, there was a 1.4% set aside for Indian programs. That provision is not reflected in the proposed rules while moneys are reserved for other minorities. We request that consideration be given to an equitable reserve of funds for Indian --- more specifically, tribally controlled programs.

It is the consensus of the North Dakota Tribally Controlled Community Colleges that changes in the regulations as requested above would at least allow this group of developing institutions to compete for urgently needed funds for the inprovement of systems which would allow progress toward complete independence and viability. Consideration of these comments is appreciated.

Senator **Denton**. I want to express my appreciation for the attendance and interest by all here today. This hearing stands adjourned.

[Whereupon, at 11:34 a.m., the subcommittee was adjourned.]

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